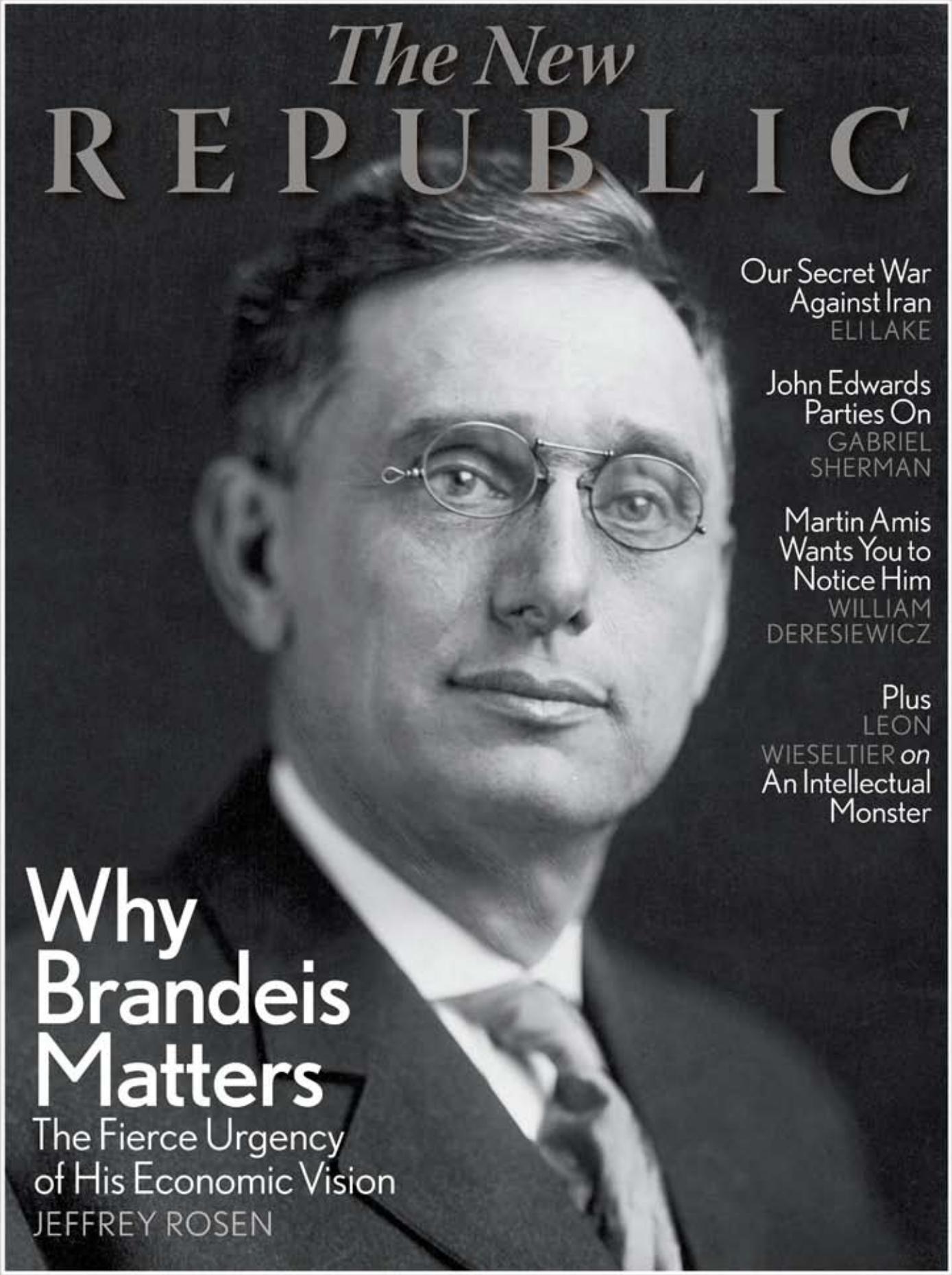

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You deserve a factual look at . . .

The Great "Peace Flotilla" Ambush

How Israel fell into a trap, carefully set by its enemies

A short while ago, a "peace flotilla" of six ships set out to bring relief to the so-called "beleaguered" Gaza Strip and to break a naval blockade that Israel had imposed. Five of the ships peacefully obeyed the instructions of the Israeli military to unload their cargo in Ashdod, an Israeli port. There the cargo was examined. That which was, indeed, peaceful cargo, was promptly transferred to Gaza. The sixth vessel, the MAVI MARMARA, offered violent resistance to the Israeli commandos who had boarded the vessel. A melee ensued in which nine of the "peace lovers," all Turks, offered violent armed resistance and were killed.

What are the facts?

Sponsored and egged on by Turkey. This "peace flotilla" was sponsored by a Turkish terror organization disguised as a "charity" and encouraged and egged on by the Turkish government. Its principal purpose was not to bring supplies to Gaza, but to confront Israel, which had instituted a naval blockade against the Gaza Strip. It was a win-win situation for the flotilla: Either they would reach Gaza and thus accomplish their stated purpose or they would become "martyrs," an almost more desirable outcome for this group.

Gaza is under the control of Hamas, which is considered to be a rogue terror regime by the United States and many other countries. It is sworn to the destruction of Israel. Israel, in a splendid gesture of good will, had abandoned Gaza, removed its military and evacuated all 9,000 of its citizens, who had lived there for generations. This gesture of good will was a futile one. Instead of showing any appreciation for Israel's accommodation, the Hamas government of Gaza showed its "gratitude" by lobbing thousands of rockets on an almost daily basis into Israeli cities within its reach.

Hundreds of tunnels connect the Egyptian-controlled Sinai with Gaza. Huge amounts of contraband, including rockets and other weapons – virtually all of them of Iranian provenance – enter Gaza through these tunnels, under the benevolent neglect of the Egyptian military.

No hunger or emergency in Gaza. The clamor that Gaza needs outside help, that its inhabitants lack the essentials for leading a normal life, is simply not correct. It is a propaganda ploy to demonize Israel. There is no hunger in Gaza and no hardship other than that imposed by its terrorist government, whose only inalterable purpose is the destruction of Israel. Tens of thousands of truckloads of food, medicines, and other essentials are allowed into Gaza on a daily basis. There is no shortage of medicine. Gasoline and diesel oil are amply provided. Israel supplies electricity to the Strip. The only thing that Israel does not allow to enter is material that could be used to construct weaponry.

Every day all Gazans who need medical attention that is not available in the Strip are allowed passage to be treated (without cost, of course) in Israel's world-class hospitals. It is remarkable that all this help is being extended while Gilad Shalit, the Israeli soldier who was kidnapped by Hamas over four years ago, is not allowed even a visit by the Red Cross.

> "... Israel's effort to stop the 'peace flotilla'... cast righteous Israel (once again) in the role of villain. What a sham!"

The blockade of the Gaza coast is essential for preserving the peace. Had Israel allowed the "peace flotilla" to enter a Gaza port, it would inevitably have led the way to the establishment of a de facto Iranian port in the Mediterranean, 40 miles from Tel Aviv and not much farther from Jerusalem. It is quite likely that the cargo of the "peace flotilla" was indeed peaceful goods. But there can be no question at all that, once the blockade was broken or abandoned, subsequent shipments would have included Iranian armaments too bulky or too heavy to supply through the tunnels and, most likely, also well-equipped and well trained-Iranian military personnel. What country would possibly allow anything like that to happen?

It is, of course, most regrettable that the intervention of Israeli commandos to stop the "peace flotilla" caused the deaths of nine Turks. But it was unavoidable. The trained "activists" of the MAVI MARMARA confronted the Israelis with hatchets, spears, clubs, and firearms, threw one commando overboard, and insured that a fire fight could not be avoided. Nine deaths, nine martyrs, was the expected and ultimately desired result.

Israel acted exactly as it should have and as could have been expected. No country would allow a blockade to be broken. Can anybody imagine that, even without an established blockade being in place, the U.S. Coast Guard would allow a vessel of a foreign country to dock in an American port without obeying an order to stop and be searched if necessary? But the world got into an uproar, the U.N. went into overtime, and Turkey – the instigator of the whole affair – declared Israel to be a criminal nation and recalled its ambassador. All of this happened only a short time after North Korea, without provocation, torpedoed a South Korean vessel, causing the deaths of 46 sailors. The world barely noticed. Angry mobs did not parade through the capitals of the world and no North Korean flags were burned. But Israel's effort to stop the "peace flotilla" exercised the irate attention of the whole world and cast righteous Israel (once again) in the role of villain. What a sham!

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THE NEW REPUBLIC

A Journal of Politics and the Arts

VOLUME 241 WASHINGTON, JULY 22, 2010 NUMBER 4,887

Hold It Right There

THE MOST AMAZING thing happened in Washington this week: A confirmation process moved forward. It happened when Elena Kagan, President Obama's nominee for the Supreme Court, appeared before the Senate Judiciary Committee. There were opening statements, first by the senators and then by Kagan. Next, there were questions. Republicans frequently indicated their displeasure with Kagan; many hinted at their intention to vote against her. But the hearings were taking place, and, at least as of press time, votes seemed likely to follow—first by the committee, then by the full Senate.

What made this mundane chain of events so remarkable? The fact that it hasn't happened more frequently in the last year and a half. Supreme Court nominations are the most high-profile and, arguably, the most important appointments a president must bring to Congress. But they're hardly the only ones. The president has to nominate lower-court judges and staff the executive branch, which means submitting several hundred appointments for Senate approval. And a shockingly high number of those positions have gone unfilled. A few weeks ago, National Public Radio reported that 120 Obama nominations were pending in the Senate. By contrast, as of Memorial Day 2002, just 13 Bush nominations were in similar limbo.

Among those Obama nominees awaiting confirmation are appointees to Homeland Security, the National Transportation Safety Board, and the Department of Energy. Vacancies at the National Labor Relations Board have crippled that body, particularly after the Supreme Court ruled that the agency couldn't act without at least three members voting. But, even at agencies that can get along with temporary, acting officials, vacancies have made it impossible to fill lower positions—since it's hard to hire people when nobody is sure who's going to be in charge. Just last week, the Senate finally took action on about half of Obama's outstanding nominations. But that means half—around 60, depending on how you count—are still pending. As of earlier this month, the average waiting time between committee report and final confirmation during this administration was more than 100 days.

When a nomination sits on the Senate calendar for that long, the reason is usually what's known as a "hold"—which is, basically, a senator threatening to launch a filibuster if a nomination comes to the floor. The threat works because the Senate, overwhelmed by the volume of nominations, dispenses with most of them (and, for that matter, most Senate business) with what's known as "unanimous consent"—an understanding that a motion can proceed without anybody objecting. One senator objecting means there's no unanimity, forcing the Senate to have a full debate—something it simply doesn't have the time to do that frequently.

It's the type of institutional dysfunction observers of U.S. politics have come to expect of the Senate. But what makes this practice particularly pernicious is that senators can launch their holds anonymously, thus blocking nominations without getting the blame. A hold, in other words, can be the political equivalent of a perfect crime—unless, of course, somebody manages to expose it. This famously happened to Republican Richard Shelby after he issued a "blanket" hold on all Obama nominations, in order to make sure his home state of Alabama got lucrative contracts to build Air Force tankers and an FBI center.

Democrats, to be sure, have used the anonymous hold, too. But Republicans have taken the practice to new extremes—making the case for some sort of institutional reform even more urgent.

For more than a decade, good-government legislators like Senators Ron Wyden of Oregon and Charles Grassley of Iowa have been agitating to end the practice—or, at the very least, to curb it. Wyden is a Democrat and Grassley a Republican, proving that there's bipartisan support for this reform, even if the problem right now is largely partisan. In 2007, on their third formal attempt to alter the rule, they finally succeeded—sort of. As part of an ethics bill that passed with more than 80 votes, they won a rule change under which senators must declare their intention to mount a hold, exposing them to the kind of opprobrium that eventually made Shelby back down. But the new rule has loopholes that senators have learned to exploit. Wyden and Grassley are now pushing a proposal that would close those loopholes—by, among other things, requiring senators to file holds in writing.

The push to end anonymous holds is gathering steam, with everybody from Missouri's Claire McCaskill to *The Washington Post* editorial page clamoring for it. Though the campaign has run into opposition from a handful of stubborn Republicans, chief among them Jim DeMint of South Carolina, last week's approval of the approximately 60 nominations was, to many observers, a sign that the practice is finally becoming indefensible. Let's hope so. Anonymous holds are not just un-Democratic. They're undemocratic, too. ◆

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Corporate Shrill

Is Obama a stooge of big business?

JONATHAN CHAIT

Last week, Ivan Seidenberg, chairman of the Business Roundtable, delivered a speech denouncing the economic policies of the Obama administration. Seidenberg attacked the administration for heavy-handed regulation of business, excessive deficits and—most of all—too much taxation of corporations and capital owners.

You're not surprised to hear that the business lobby is denouncing a Democratic administration for excessive liberalism, are you? You might be, if you subscribe to the persistent critique of the Obama administration as a lackey of big business. The more familiar version of this critique castigates Obama from the left for compromising the liberal agenda in order to curry favor with the titans of industry. Eric Alterman of *The Nation* laments "the administration's minimalist approach to reregulating the banking sector, its refusal to consider any kind of single-payer healthcare plan and its polluter-friendly cap-and-trade approach to reducing climate change." On the right, libertarians like Timothy Carney of *The Washington Examiner* lambaste Obama's "robust corporate-government collusion."

Both wings of the anti-corporate critique have more than a grain of truth to them. The Democrats have devoted considerable attention to wooing the business lobby. The business lobby, in turn, has exercised significant influence over policy. And Obama and Democrats have watered down nearly every element of the administration's agenda at the business lobby's behest. Yet the conclusion that the agenda is a sop to business at the expense of the public interest is false.

The left-wing version takes the form of crushing disappointment. One mistaken premise is the belief that there is a zero-sum relationship between good public policy and the interests of corporate America. Take, for instance, long-standing left-wing hostility toward cap-and-trade as a mechanism to control pollution. Corporations prefer cap-and-trade—where the government sets an overall level of emissions and allows high-emitting businesses to pay low-emitting businesses—over blunt regulation that forces all business to meet a fixed target. That's because cap-and-trade allows the same emissions reductions as regulation, but at a much lower cost. To assume that corporations' preference for cap-and-trade damns the policy is to assume that imposing costs upon corporations is an end in itself.

Likewise, Obama drew a great deal of ire for championing a health care reform that preserved private insurance. It is true that the interests of insurers lie at cross-purposes with those of the public as a whole, but they are not diametrical. Compared to a system of private insurance where tens of millions of people lack any coverage at all, a system of universal, subsidized private insurance is both more humane and more profitable for insurers. (Where the public is concerned, a system of government-provided insurance would be superior to either, but no single-payer advocate has made a serious case that such a plan had even a remote prospect of winning 60 Senate votes.)

The left critique maintains that progress comes only when the president wages a climactic, Manichean struggle against the business lobby. "It's naive to think you're going to change American policy by compromising on a lot of stuff," complains *Rolling Stone* editor Jann Wenner. That happens to be a nearly perfect inversion of historical reality. Presidents change policy almost *exclusively* through compromise. Seen through the prism of ideological purity, the history of American liberalism from emancipation (which left millions of former slaves in slave-like conditions) to Social Security (a piddling pension initially denied to 40 percent of the workforce) to the Clean Air Act (weak and loophole-ridden) is a history of sell-outs. Only with the perspective of history, and often a series of incremental improvements, do such things acquire the sheen of progress.

The right-wing critique, of course, invokes a spirit not of deflation but of populist outrage. Here is Obama fusing big government and big business into one frightening whole. It is worth noting that conservatism is starkly divided between those terrified of Obama's coziness with big business and those terrified of his hostility to big business. For an example of the former, consider Manhattan Institute fellow Steven Malanga, who has compared Obama's "corporatism" to the economic policies of fascist Italy and Nazi Germany. (Glenn Beck and Jonah Goldberg have struck similar themes—not calling Obama a fascist, but calling him a corporatist while identifying corporatism as Hitlernomics.) For an example of the latter, take Thomas Sowell's recent column comparing Obama's pressure on BP to establish an escrow fund for victims of its spill to a Hitlerian law "for the relief of the German people." The column has drawn favorable citations from Sarah Palin and other leading Republicans.

In the former analogy, American business is Volkswagen, a grubby handmaiden to power. In the latter analogy, it is the Jews, being demonized and stripped of their rights while a nation cheers. In both stories, obviously, Obama plays the role of Hitler. Of course, most right-wingers stop well short of the Third Reich metaphor. Yet the striking thing is that few leading conservatives can be found who consider Obama's relationship to business *neither* frighteningly close nor frighteningly hostile.

The central fallacy of all the critiques of Obama's "corporatism," both right and left, is that they mistake negotiation for collaboration. There is a difference between businesses jostling to minimize the damage of a reform they can't stop and businesses crafting legislation they desperately want to enact. Since German metaphors seem to be in vogue, consider the difference between the Treaty of Versailles and the Hitler-Stalin pact. Both involved negotiations over territorial adjustments, but the dynamic could hardly have been more different.

Finally, the corporatist critique is simply at odds with reality. Some individual businesses may stand to gain from elements of Obama's agenda. Others can accept the broad goals of the agenda in return for the chance to shape the details in the least damaging way. But the general disposition of the business lobby has been one of opposition. The U.S. Chamber of Commerce has consistently opposed Obama's proposals. The Business Roundtable, after initial conciliation, is now sounding similar notes. Even Obama's financial regulatory bill, supposedly a corporate handout, draws the Roundtable's ire. "The bigger the business," warns Goldberg, "the more reliable the partner for big government." That still turns out to be not so reliable. ◆

TRB
From Washington

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Cover photo: Bettmann/Corbis

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THE NEW REPUBLIC (ISSN 0028-6583), Vol. 241, Number 12, Issue 4,887, July 22, 2010. (Printed in the United States on June 30, 2010.) Published bi-weekly (except for skipped publication dates of January 21, March 4, April 22, August 5, August 26, September 16, October 7, November 25, December 16 & 23, 2010) at 1331 H Street, NW, Suite 700, Washington, D.C. 20005. Telephone (202) 508-4444. Yearly subscriptions, $79.97; foreign, $119.97 (U.S. funds); Canada, $99.97 (U.S. funds). Back issues, $8.00 domestic and $10.00 foreign/Canada (includes postage & handling).

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Periodicals postage paid at Washington, D.C., and additional mailing offices. Rights and permissions: fax (202) 204-4871. Indexed in Readers' Guide, Media Review Digest. For hard copy reprints, call (202) 508-4444. Microform, Canadian Periodical Index, and CD-ROM are available through ProQuest, 300 N. Zeeb Road, Ann Arbor, MI 48106. Telephone (800) 521-0600. Postmaster: Send changes of address to The New Republic, P.O. Box 15818, North Hollywood, CA 91615-5818. Member, BPA Worldwide. Send letters and unsolicited manuscripts to letters@tnr.com. Poetry submissions must be e-mailed to poetry@tnr.com.

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The Mall

After the Fall

John Edwards parties on.

On Saturday night, April 24, 2010, five days before John Edwards's mistress Rielle Hunter sat down with Oprah to talk about the by-then-infamous sex tape and other embarrassments that had destroyed his political career, the former presidential candidate showed up at the West End Wine Bar in downtown Durham, North Carolina. It was around ten o'clock, and Edwards wanted a glass of wine after finishing dinner with friends at a nearby restaurant.

When he got to the door, Edwards was disappointed to learn the bar was closed for a private event. A group of Duke public policy grad students had reserved the space to celebrate the end of the semester at a party they call "Prom." Inside, a DJ mixed dance music, while a scrum of twentysomethings jostled for drinks. Edwards and his friends turned to leave. Matthew Jentgen, a 28-year-old environmental policy student collecting tickets at the door, furiously lobbied them to come inside. "I told him, 'We're public policy students, it'd be interesting to have you at the party,'" Jentgen recently recalled. "He was looking as if he was wondering if he wanted to come in or not. … I wore him down, because, eventually, they came in."

Word that Edwards was at the door coursed through the crowd. Once he was inside, students came up to snap photos with him. One attendee recalled that he wore his wedding ring. Edwards lapped up the attention. "He was graciously taking pictures for thirty minutes," Jentgen says. Not everyone was thrilled, though. "Some people there had worked on his campaign and were still excited to see him," Jentgen recalls. "Others, obviously, were not."

Edwards stayed for two hours, leaving around midnight. He drank white wine and light beer, according to multiple attendees. After a while, Edwards made his way to the dance floor. "He was kind of uncomfortably dancing," Jentgen says. "He was just happy to be with people who weren't going to judge him." Edwards cut loose, dancing to everything from salsa to Wreckx-n-Effect's 1992 rap hit "Rump Shaker."

In the aftermath of the 2008 presidential campaign, Edwards was said to be distraught. He lost a precipitous amount of weight, and advisers even told reporters at the time that they worried he might be suicidal. Since then, his circumstances have only gotten worse. A federal grand jury continues to probe whether he illegally funneled campaign contributions to Hunter to keep their affair secret. Hunter's explosive interviews with *GQ* and Oprah kept the scandal-mill churning, as did a tell-all memoir by former Edwards aide Andrew Young. A January 2010 poll by Public Policy Polling concluded that Edwards is the "most unpopular person we've polled anywhere at any time."

But Edwards is refusing to follow in the tradition of other disgraced figures like Tiger Woods and Eliot Spitzer, who initially kept low profiles after they were publicly humiliated. On the contrary, since January—when he admitted to fathering a child with Hunter and said he was separating from his wife, Elizabeth—there have been frequent Edwards sightings around Durham. On a given night, he might pop up at The Federal, a dimly lit Durham dive bar, or The Wooden Nickel, a bar in nearby Hillsborough that features "Club 69"—an honor bestowed on patrons who consume at least one drink from every bottle behind the bar. ("Club 69" members have their portraits engraved on hand-carved wooden plaques lining the wall.)

Friends say that Edwards's new lifestyle stems from a sense of relief that both his failing marriage and his days of concealing the truth about his personal life are behind him. "He felt badly … that he had disowned his child," Harrison Hickman, Edwards's longtime pollster, told me. "He wanted to set the record straight about that." A less charitable view, voiced by former friends and political advisers, is that Edwards's bachelor lifestyle is a symptom of his outsize ego. Whatever the case, Edwards is—on the surface, anyway—trying to enjoy himself. As Jentgen remarked after seeing Edwards hit the dance floor, "If his career is over, at least he's having a life."

Edwards spent part of last summer at his family's beach house on North Carolina's Figure Eight Island. There, he was seen jogging in the oppressive heat. "Not one single hair was the least bit out of place," a neighbor, Lynn Haley, recalled of one extremely windy day. Around the same time, Andrea Griffith, an editor at *Chapel Hill Magazine*, bumped into Edwards while she was interviewing Elizabeth for an article about her recently opened furniture store. At this point, John had admitted his affair with Rielle Hunter—but his admission that he fathered a child with Hunter and his separation from Elizabeth were both still months off. Edwards came in wearing shorts and a t-shirt, drinking soda out of a plastic cup. "He'd been to Wendy's. It was the middle of the day, on a Tuesday," Griffith told me. Edwards sat in the corner reading his Kindle. After the interview with Elizabeth, Griffith went up to Edwards and asked what he had been doing. "I'm thinking about getting into law," he said wistfully, as his voice trailed off. (Through a spokesperson, Edwards declined to comment for this article.)

Griffith wasn't the only person to whom Edwards mused about his professional future. Six months earlier, in February 2009, Edwards received a letter from a man named Michael Bonderer, a Kansas City native who had spent the previous decade doing volunteer work in Central America. Bonderer runs a Christian charity called Homes from the Heart that builds housing in El Salvador. Bon-

ANTHONY RUSSO

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derer told me he contacted Edwards on a lark while he was looking for a political celebrity to become aligned with his charity. "I said, 'Who would have time to devote to our mission?' I was thinking of different politicians. I started cold calling. I called that Republican guy I don't particularly care for—Newt Gingrich. I thought George Bush once he left office would be a good one. I called everybody." Bush and Gingrich weren't available, but Edwards responded to Bonderer's letter. Later that spring, he took a commercial flight to El Salvador with his closest friend and former law partner, David Kirby, to check out Bonderer's organization. "This whole mess he's in hadn't gone front and center yet," Bonderer recalls.

Bonderer and Edwards hit it off. Through the end of 2009, Edwards would travel three more times to El Salvador and work in a slum on the outskirts of San Salvador. While pouring concrete and hammering nails, Edwards seemed to forget his troubles back home. He never once spoke about Hunter or the paternity scandal. Last December, Edwards confided in Bonderer. "What would be my strategy if all this went away?" Edwards asked. "He pretty much knows he couldn't be a trial lawyer," Bonderer told me. "He couldn't play to a jury. He couldn't run for office again, although he never rules out anything. He said to me, 'Mike, I want to help the poor.' I said, 'Then you need a plan.' The truth is he wants to help people. He doesn't want his legacy to be he had a toot with this gal from nowhere and that's the sum of his life."

Even in El Salvador, Edwards didn't completely shirk publicity. In December 2009, he talked glowingly about his career to a group of UCLA students who were on a volunteer trip to the country. "I've met presidents, premiers, leaders all over the world," he tells the students in a little-seen YouTube video. "I've done it all, being on an aircraft carrier, you name it, I've done it."

And, even after conceding in January 2010 that he had fathered a child with Hunter, he still did not shun the spotlight. The day after he released a statement admitting paternity, Edwards was on a private plane to Haiti with Sean Penn and a celebrity delegation. "When I was with him in Haiti, no one was interested in John Edwards as a bad boy," Bonderer says. Bonderer told me he didn't even know about the paternity scandal, and Edwards never mentioned the turmoil breaking back home.

Once on the ground, Edwards acted like a politician still in command. He argued with military officials at the Port-au-Prince airport in order to get a group of critically wounded children onto a medical flight to Florida. At first, the military balked at his request. "If you saw him working the military, you couldn't imagine a guy like that being in that much shit," Bonderer told me. The officials relented and transported the children to a hospital in Fort Lauderdale. "It was all Hollywood. He had two colonels working on it, he had young officers working on it. I'd never seen anything like it. It was nuts."

Initially, Elizabeth was supportive of John's volunteer work. She approved of his first trips to El Salvador. "They were talking all the time," Bonderer told me. But later, when Edwards headed to Haiti—around the time the couple's separation was announced—Elizabeth became upset that Edwards continued to pop up in public as scandal swirled around him. She e-mailed Bonderer and vented about Edwards drawing more attention to himself. "She wanted him hunkered down somewhere with his mouth shut," Bonderer says.

A few months after returning from Haiti, Edwards showed up for a glass of wine at a friend's house in Chapel Hill. The group included Edwards's onetime close friend Gus Gusler, a lawyer for Hootie and the Blowfish who had gone to college with Edwards and been an early backer. Gusler had a particularly personal falling-out with Edwards during the campaign and was still angry at him for lying about the Hunter affair. According to one person familiar with the exchange, Edwards's performance that night did little to patch things up. Gusler sat silently as Edwards "talked about himself for an hour and a half." Edwards regaled the group with tales from his trip to Haiti, talked about his newfound bachelorhood, and joked about how young women flirt with him when he's out at restaurants.

One of the realities of Edwards's post-campaign life is that the ongoing federal investigation makes it nearly impossible for him to work. Edwards doesn't have an office or a staff, one person close to him says. These days, he tends to his legal problems and little else—besides caring for his two young children. Edwards's inner circle consists of a lead lawyer and a spokesperson. Beyond this limited group, Edwards has not spoken with political advisers from the 2008 campaign for more than a year, and many of his longtime friends haven't heard from him in months. "I am really just completely out of touch with John," says Wade Byrd, a prominent North Carolina trial lawyer and Edwards's friend. On Christmas morning last year, Byrd called Edwards because it had been so long since they'd talked. "He seemed fine," Byrd told me. "But, you know, John was always good at putting the best spin on things."

Gabriel Sherman

Continental Rift

The rise of American Anglophobia.

Just over 45 years ago, I set foot in the United States for the first time. If you had sat the old Oxford scholarship exam in December and, in Simon Gray's deathless definition of the pedagogical process, displayed a fluent fraudulence that the examiners could not expose without revealing their own fraudulence, you were able to take the next nine months off before going up as a freshman in October.

So, "westward, look, the land is bright!"—a line Churchill liked to quote—and I set off to the New World, more precisely, to Chuck Berry's 'Promised Land' of southern California. Obsessed with movies (and jazz) in those days, I would have been happy carrying coffee cups in any studio, and a friend of my father's who worked for the Disney company promised to find me a job. So he did, and, for several weeks, I swept the floor in Disneyland from midnight until eight in the morning. After a while, I moved on, hitchhiking from sea to shining sea, taking in Washington, Philadelphia, and New York before reluctantly coming home to resume what passed for my education.

At present, Anglo-American relations have acquired an envenomed flavor, particularly, though not only, through the acute American hostility toward "*British* Petroleum." Just as Tony Blair's immediate reward for his absolute loyalty to Bush the Younger was a tariff that threatened to destroy what's left of the British steel industry, our troops in Afghanistan may have heard tell of the Obama administration's studied neutrality over the Falklands.

Even so and even now, I look back to that summer, floor-sweeping aside, with many happy memories. Wish they all could be California girls. I loved the United States then, and more with every visit since. But I also realized that this *was* another country. For all my affection, I've come, over the years, to understand what Chesterton meant: Nowhere on earth does an Englishman feel so much a foreigner as in the United States. Besides that, I became aware that my warm

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feelings were by no means always reciprocated. There is nothing so new in what we've heard in recent weeks: American Anglophobia is a long-lived and vigorous tradition.

Defending BP or Tony "I want my life back" Hayward is a hopeless task. The company's conduct has been way beyond indefensible, and Hayward makes his compatriots cringe, though we smiled when an American interviewed on BBC radio asked derisively whether the hapless head of BP was some kind of "lord, or a duke …?" If I may say, no one English would easily mistake Hayward for a nobleman, or a gentleman. He illustrates the problems with meritocracy rather than privilege, a competent geologist who has been promoted way too far, and one can only agree with Rahm Emanuel, who said dryly that Hayward would not be making a second career in public relations.

But hold on a moment. Did Cap'n Hayward and his rascally crew sail into the Gulf of Mexico flying the skull and crossbones and flourishing cutlasses, before drilling away merrily in defiance of all law and custom? No, BP has been legally operating for years, by way of paying for leases from the Minerals Management Service of the U.S. Department of the Interior. The company has made huge profits for its stockholders, about 40 percent of whom are American; it has also provided huge revenues for the U.S. Treasury; and it has done all of this by way of slaking the unquenchable American thirst for cheap fuel. It wasn't the absurd Hayward who forced the American people to consume 20 million barrels of oil a day or to expect even now to buy gas at the pump at a price per volume that Europeans literally pay for some brands of mineral water.

To argue, as Boris Johnson, the flamboyant mayor of London, did (and as I'm ashamed to admit I have also done in a London paper), that President Obama's rhetoric has sent down the price of BP stock and damaged the pensions of many British people, is ignoble, however true. *Fiat justitia*: Let justice be done though the heavens fall in, even on a little old lady in Budleigh Salterton.

But it's still more foolish for Americans to ask how the Brits would like it if something like *Deepwater Horizon* happened off their own coast. They've forgotten the name of *Piper Alpha*, the oil rig whose explosion in the North Sea in 1988 killed 167 men, 15 times more than those who died on *Deepwater Horizon*. It was owned by the U.S. company Occidental Petroleum,

BP's mistakes cannot explain the recent spasm of Brit-bashing.

whose chief executive was not hauled before a Parliamentary committee in London or denounced in anti-American tones by Margaret Thatcher, the prime minister. And we might remember the worst horror, the leak of toxins in 1984 from the Bhopal pesticide plant owned by a subsidiary of the U.S. company Union Carbide, which killed 2,259 Indians immediately (and gruesomely) and, by some estimates, as many as 20,000 in the end.

In any case, incompetence or negligence on BP's part cannot explain the spasm of Brit-bashing, from the Obama administration and Nancy Pelosi repeatedly saying "*British* Petroleum" (for what it's worth, it has been officially known for years as "BP," tout court, like "AT&T") to Representative Anthony Weiner, a New York Democrat, saying that anyone from BP talking with a British accent is lying.

Still, maybe we shouldn't be surprised in view of that long-lived Anglophobia. Not only did the United States begin with a rebellion against the British crown. The revolution was led by men like Thomas Jefferson, who said of England that he would willingly "lend my hand to sink the whole island in the ocean," and Benjamin Franklin, who rejoiced that every other country "wishes to see Britain humbled, having all in their turns been offended by her insolence." The revolutionists believed, of course, that they were fighting for the noble cause of liberty. Maybe so. But they were also fighting for a free hand to deal with what the Declaration of Independence calls "the merciless Indian savages" and the right of free-born Americans to own other human beings. As that great English Tory Samuel Johnson asked at the time, "How is it that we hear the loudest yelps for liberty among the drivers of negroes?"

After the rematch in 1812—when you sing "The Star-Spangled Banner," I trust you remember that it was British rockets' red glare—the two countries nearly went to war at least three times in the following 100 years. On each occasion, it was American sabres that were rattled: by President Polk over the Oregon border, by Secretary of State Seward during the Civil War, and by President Cleveland over the Venezuela border. More remarkably, it was recorded at the time of that last crisis in 1895 that, whereas the English regarded the prospect of conflict against the Americans with horror as a kind of fratricidal civil war, in the United States, a war with England would have been the most popular of all wars. Even in 1914, President Wilson worried that he might have to enter the war—against Great Britain. And, during the greatest of our wars, against the Third Reich, there were far more acute tensions and rivalries between the two countries than you would ever guess from Churchill's account.

There is a long tradition of villainous Englishmen on screen, from James Mason in *North by Northwest* to Sideshow Bob (with whom I rather identify) in "The Simpsons," and, nowadays, nearly every really nasty person in a Hollywood movie can be immediately identified by

A. Richard Allen

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his English accent (just so you know he can't be trusted, Weiner would doubtless say). Quite apart from endless cinematic celebrations of Irish freedom fighters, a film like *Braveheart*, starring that well-known liberal philo-Semite Mel Gibson, "gave full rein to a toxic Anglophobia," as the literary critic John Sutherland said. As to *The Patriot* (inevitably with Gibson again), a bigoted travesty of the history of the Revolutionary War is one thing, but the director was *German*. There were no massacres of villagers in South Carolina during that war, but, if Roland Emmerich looked into it, he would find that, within living memory, whole French, Czech, Greek, and Italian villages were indeed exterminated, and the army responsible was not British.

For an English journalist, of all people, to complain about American Anglophobia might seem ungrateful to the point of absurdity. The Land of Liberty still says, "Give me your tired, your poor, your huddled masses yearning to be magazine editors," and not all of my expatriate compatriots seem to have found an English drawl a disadvantage; indeed, Representative Weiner might try looking for another kind of Hitch in the argument. All the same, the bitter denunciations of *British* Petroleum seem incautious as long as the *British* army is helping with so many of America's wars. One day, that kind of hostility might just be reciprocated.

GEOFFREY WHEATCROFT

Geoffrey Wheatcroft's books include THE STRANGE DEATH OF TORY ENGLAND *and* YO, BLAIR!

Media Maven

The strategic genius of Sarah Palin.

LIKE MOST GREAT WOMEN of mystery, Sarah Palin is at once everywhere and nowhere. On any given evening, you might see the former Alaska governor-turned-conservative-icon on Fox News, chatting up like-minded travelers about the political buzz du jour. Her byline pops up now and again in the opinion pages (supporting McCain, bashing enviros). She periodically hits the campaign trail with favored candidates. She is a prolific and passionate tweeter. Her Facebook page overflows with thoughts on global events both past (D-Day, Reagan's Brandenburg Gate speech) and present (Israel, border security, the need to drill, baby, drill); news of upcoming appearances (a rally at the Lincoln Memorial with Glenn Beck, a possible U.K. jaunt to meet Margaret Thatcher); the latest media atrocities committed against her; and her rolling endorsements of "commonsense conservative" candidates who tickle her fancy. And, any day now, filming is scheduled to start on the docu-travelogue series in which Palin will "bring the wonder and majesty of Alaska" to TLC viewers.

In the midst of this aggressive visibility, however, Palin keeps a tight grip on her time in the public eye. She rarely sits down with non-conservative interviewers and eschews mix-'em-up formats pitting her viewpoint against that of a more liberal counterpart. More fascinating, she is cautious about her interaction with fellow Republicans. Some of her Facebook endorsements this election cycle have come with telephone outreach to the chosen candidate or, for the fortunate few, even joint appearances. Others come suddenly, with no direct communication at all. More than one campaign learned of Palin's endorsement only when some staffer or supporter stumbled across it online. There is, for instance, an entertaining video clip of Iowa gubernatorial hopeful Terry Branstad being handed news of his anointment during a June 3 campaign event. Blindsided, Branstad chuckles awkwardly and announces, with evident amazement, "I never expected this! Sarah Palin just endorsed us on Facebook." (It's hard to tell from audience members' explosive laughter whether they are more delighted or appalled for Branstad, a moderate Republican whose endorsement by Palin drew howls of protest from her conservative followers.)

For Republican pols actively angling for Palin's magic touch, simply attracting the attention of Palinland can prove challenging. There have been smirking media accounts of various Republican primary combatants scrambling for a Palin endorsement or appearance. Before he became infamous for serially exaggerating his résumé, Illinois Senate candidate Mark Kirk suffered the indignity of having his make-her-love-me-please memo to Palin pal Fred Malek leaked to the media. Among Republican strategists, there has arisen grumbling about the difficulties in connecting with her people. "Nobody even knows how to get ahold of her. No one knows who to call," says one. Some campaigns grew so desperate, they took to e-mailing Palin's Facebook page. (Meanwhile, even among those considered close to Palin, there is some confusion as to who, besides Sarah and Todd, are in-the-know, central players in Palinland.) Grumps the strategist, "The entire Palin organization seems to be the woman, a massive Facebook page, and a ton of TV cameras."

"Nobody even knows how to get ahold of her," says a GOP strategist.

It's an unconventional media strategy, to be sure, and not without its drawbacks—namely, bitter party operatives. ("This means that you can't plan anything!" says the strategist.) Yet it's hard to deny that Palin's p.r. approach has not only succeeded but succeeded brilliantly. How? The most obvious element at work here is that Palin operates not as a politician but as

PABLO

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a celebrity. "Most politicians can't get on the cover of *People*," sighs another GOP campaign veteran. "She's on the cover almost every week." The rules are different for celebrities: Palin's megawattage enables her to command attention for every word and gesture, even as she largely stiff-arms *The New York Times* and "Meet the Press." Similarly, candidates desperate for her endorsement are unlikely to (publicly) whine about whatever attention she dribbles their way, no matter how arbitrary or last-minute.

Of course, unlike other categories of the rich and famous, political celebs (especially populist firebrands) cannot risk being seen as remote or out of touch. But here's where Palin's embrace of new media saves the day. Her perky, quirky tweets and chatty Facebook items make her fans *feel* as though they have a direct line to her—despite the oft-voiced assumption that Palin (like so many pols) does not write most (if any) of her own Facebook posts. Such is the beauty of social networking: It allows a public figure to avoid direct interaction with the public while promoting the illusion of personal connection and involvement.

This model makes perfect sense for Palin if she plans to continue as a media personality. It's unlikely she'd change her m.o., however, even if she decided to run for office again one day. It suits her core strengths—passion, pithiness, and a mind-boggling magnetism—and, let's face it, it's so much *easier* than the conventional model. Already, even as Palin eagerly collects scalps in the midterm races (a key step toward running for future office), she is skipping much of the messier, schmoozier work of building relationships with other campaigns (traditionally also a key step), opting instead to bless many from the safe, antiseptic distance of Facebook.

Palin would not be the first celebrity candidate to attempt an above-the-fray strategy. In the hunt for the 2008 GOP presidential nomination, ex-senator and erstwhile actor Fred Thompson briefly entertained dreams of running a different kind of campaign, in which his fame and willingness to rely on the Web would spare him from trudging through all those snow banks in Iowa and New Hampshire. A key part of his plan was to speak directly to voters via blog posts and other new-media tools, rather than letting himself be filtered by all the usual gatekeepers. But Thompson, while plenty well-known and delightfully avuncular, lacked the fire in the belly to make it more than a couple of feet off the starting block.

Palin, by contrast, appears to still harbor plenty of ambition, or at least scores to settle. She also enjoys a media landscape far more "democratized" than what Thompson faced just a few years ago—who knows what Team Fred could have done with the Twitter mania that's swept politics recently?—not to mention a star quality many Hollywood A-listers would kill for. With her new-media savvy and old-fashioned charisma, Palin has managed to merge Norma Desmond ("Mr. DeMille, I'm ready for my close-up") with Greta Garbo ("I want to be alone") to become one of the most irresistible spectacles on the public stage. Any political strategist who orchestrated such brilliant success via such unconventional means would instantly be dubbed the p.r. genius of our time. But, as far as we know, there is no crack communications team charting Palin's course. At some point, even Palin haters may have to face the possibility that the p.r. genius is Sarah herself.

Michelle Cottle

Morning-After Drill

How Obama made an oil disaster more likely.

In the summer of 2008, Democrats had a serious oil problem. Just as the presidential primaries were winding down, gas prices were soaring toward $4 per gallon. Anxious voters were watching their budgets gobbled up by fuel costs, while truck drivers were protesting across the country—at one point circling the Capitol in horn-honking caravans. Republicans were dominating the message war: Newt Gingrich had just launched his "Drill Here, Drill Now" campaign, gathering more than 1.3 million signatures. And Democrats, for their part, were in retreat: As Eric Pooley reports in *The Climate War*, their internal polling revealed that voters had zero patience for any energy platform that lacked a hefty drilling component.

Everyone wanted to see how Barack Obama would respond. In July, Senate Majority Whip Dick Durbin hinted to *The Wall Street Journal* that Democrats might be open to "responsible production," but he was soon asked by Obama to hold off. At that point, Obama still saw drilling as a gimmick, insisting that it wasn't the solution to America's oil crunch. Only after a month of agonizing—and watching Democrats get clobbered on the issue—did the campaign relent. In August, Obama announced he would support new offshore exploration as part of a broader mix of climate and clean-energy policies.

At the time, Obama's decision was considered a savvy rope-a-dope, the kind of bipartisan gesture that would come to define his first year in office. If Democrats embraced drilling, they could take away the GOP's best talking point on energy and force a deal on climate policy. "Politically, Democratic energy bills are often caricatured as focusing only on constraints," says Jason Grumet, a former campaign adviser. The new approach was a way of breaking that deadlock.

Within the campaign, advisers came to embrace the policy rationale. After all, if Congress enacted an economy-wide cap on carbon pollution, then new production couldn't make global warming any worse. And domestic drilling could help the country reduce its reliance on imports while it made the transition to electric cars and other clean alternatives. The logic was sound. Yet the policy still grew out of a frenzied political moment—it was a defensive maneuver, not one born of strong conviction.

Nonetheless, after the election, Obama followed through. One of his first acts was to nominate Ken Salazar, a Colorado senator who had championed offshore drilling, to run the Interior Department. And, in March of this year, the administration announced a plan to expand offshore oil production. The proposal was designed to attract conservative votes for climate legislation, especially in the Senate, where Lindsey Graham had said he'd be amenable to a cap on carbon pollution in exchange for more offshore drilling. But it was also intended to get out in front of rising gas prices this summer and avoid a repeat of the insanity of 2008. The strategy looked shrewd—until, that is, BP's *Deepwater Horizon* platform went up in flames and millions of gallons of crude started bubbling up into the Gulf of Mexico.

In the wake of the Gulf spill, both the press and Congress have zeroed in on BP's recklessness and the numerous oversight lapses by Salazar's Interior Department. But it's worth looking at how Obama's original decision to pursue drilling made the spill more likely—and how a tactical move devised during the heat

ANTHONY RUSSO

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of a presidential campaign turned into the administration's biggest blunder.

When Ken Salazar first arrived at Interior, he initially focused on the spectacularly lurid scandal at the Minerals Management Service (MMS), which oversees oil and gas drilling in federal waters. Employees in the royalty-collecting wing of MMS had been taking thousands of dollars worth of gifts from the oil firms they were supposed to oversee—and allowing companies to underpay the government. Worse still, the manager of the program had been steering contracts to his outside consulting firm, all while buying cocaine from and sleeping with subordinates. Salazar dubbed the affair "one of the worst examples of corruption and abuse in government." That January, he visited the Denver office of MMS wearing his trademark Stetson hat and announced, "There's a new sheriff in town." He quickly laid down new ethics rules, referred several employees to prosecutors, and ended the royalty-in-kind program at the heart of the scandal.

Yet, as it turns out, the sex and drugs were a distraction from the much deeper structural problems at MMS. "That was an easy issue," says John Leshy, who co-chaired Obama's transition team for Interior. "The more difficult issue was where the agency just wasn't doing its job."

The real trouble lay in MMS's leasing program, which had little contact with the infamous royalties wing. Companies had been getting offshore-drilling permits with stunningly little scrutiny.

In the Gulf, too many drilling projects were granted "categorical exclusions" to speed through environmental review. (Categorical exclusions are generally supposed to be given to tiny projects like stop signs, but a little-noticed executive order during the Bush years allowed massively complicated deepwater-drilling projects to qualify.) Up in Alaska, the situation was worse. Staff scientists were scrutinizing the ecological impact of new drilling proposals, but higher-ups would ignore or change these analyses if they ran the risk of bogging down the permitting process. In 2006, a marine biologist at MMS named Jeff Childs found that a spill in the Beaufort Sea, near Alaska, would have severe repercussions for the local salmon population. But his findings would have triggered a new environmental review of the leases, delaying the permitting process by a year or more, and so, his bosses told him to modify his conclusions. As a Government Accountability Office investigation later confirmed, such stories were commonplace in the Alaska division. Managers were assessed (and given bonuses) based on how quickly they approved permits—safety and environmental rules were boxes to tick as swiftly as possible. "The leasing program always trumped environmental assessments," says one former MMS employee. "Too many managers were of a mind to support the oil and gas industry. They were seen as our clients, our shareholders."

Despite all the warning signs, Salazar never addressed this dynamic, likely for a couple of reasons. For one, the entire Interior Department was in disarray after the Bush years—not just MMS. In the Fish and Wildlife Service, for instance, political appointees had been tampering with scientific findings over endangered species. "There were so many fires to put out, and so many systemic problems following the damage done by [Bush appointees]," says one congressional aide. "They were on the losing end of a court case involving tens of billions of dollars in missing oil royalties, and they were getting pressure on guns and on endangered species. Every Interior agency needed attention."

What's more, revamping the culture at MMS would have taken years, and the administration didn't have that kind of time. Thanks to Obama's commitment to "energy independence," Interior was focused on approving permits in a timely manner. In Salazar's first year, Interior opened up a record 53 million new offshore acres for drilling. (Salazar applied the same urgency to renewable-energy projects, too, directing MMS to push through a long-delayed offshore wind project near Cape Cod.)

Meanwhile, the White House was working on a broader proposal to open up the Arctic, the Southeastern Seaboard, and new areas of the Gulf for drilling. This policy was based on a five-year plan hastily devised and published in the last days of the Bush administration. Some outlets reported that Salazar and Obama had scuttled the Bush plan, but, in fact, they merely opened it for public comment and, in the end, adopted most of it. White House officials have insisted that the offshore drilling policy was carefully evaluated on the merits, but there's ample evidence that political considerations loomed large. The Interior Department, for instance, brushed aside concerns from experts at the National Oceanic and Atmospheric Administration that the plan should be delayed until a full interagency study of ocean zoning could be completed later in the year. By then, the drilling proposal would emerge too late to influence the congressional climate debate. "If they had gone to the Senate and said, well, we're scrapping the [Bush] plan entirely, and we'll get back to you when we have something new—that wouldn't have ended well for climate," says one Senate aide.

All of that may explain why Salazar was so slow to overhaul MMS. Gulf drilling projects continued to get categorical exclusions. And Salazar kept John Goll, the regional manager for the dysfunctional Alaska office, in place. (After *The New York Times* revealed that the Alaska office had been systematically suppressing scientific reports, Goll sent out an e-mail to the agency apologizing—but only for having served a cake at an office party with "Drill, Baby, Drill" written in frosting.) Nor did the Interior Department set new policies to protect its own scientists' findings, even though Salazar had the ability to do so. (The White House was tardy on this front, too: The Office of Science and Technology Policy had promised to draw up scientific-integrity recommendations by July 2009, but they have yet to materialize.)

Unfortunately, all that haste helped precipitate the *Deepwater Horizon* accident. As we now know, BP's 582-page spill-response plan for its Gulf of Mexico operations, submitted in 2009, was rife with errors. (It mentioned, among other things, steps to protect walruses, which live nowhere near the Gulf.) Yet no one with expertise appears to have reviewed it, and BP was granted a categorical exclusion that same year. When the platform blew up and oil started spewing into the Gulf, these regulatory lapses all reeked of ineptitude. But they were partly the result of an administration rushing to expand drilling before it had time to fix the structural problems at Interior.

As a final irony, the drilling push turned out to be of little help in the congressional climate debate. "That's the sad part of this story," says Grumet. "It got very little traction in the climate front." None of the pro-drilling Republican senators whom the administration had hoped to win over changed their minds about voting for a carbon cap. Lindsey Graham eventually pulled out of talks, and it's uncertain whether any robust climate measure can pass the Senate this year.

A major ecological catastrophe has a way of focusing the mind. In the weeks after the BP blowout, Salazar ditched his cowboy hat and pledged a number of genuinely significant

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reforms to the Interior Department. The head of MMS, Elizabeth Birnbaum, was pushed out (though Birnbaum's supporters say she was always quite reform-minded and was never given a mandate to make sweeping changes). And Salazar proposed to split MMS into three pieces, so that the division dealing with environmental analysis isn't lumped in with the one that handles leasing.

Even so, some experts think the regulatory failures laid bare by the Gulf spill are so fundamental that they'll require far more extensive fixes—including, potentially, an overhaul of the underlying environmental rules. "I don't know of any project that's ever been stopped by NEPA [the National Environmental Protection Act]," says Rick Steiner, a University of Alaska marine specialist who helped lead the response to the *Exxon Valdez* spill. "Companies always find a way to subvert concerns, understate risks, overstate benefits, make it look like environmental concerns are being addressed, even if they're not. It's a forty-year-old law, and that may be something we have to look at." But that would take time and could put a crimp on further drilling—a dicey political proposition. When the administration issued a six-month moratorium on new deepwater drilling in the Gulf, coastal senators like Mary Landrieu and David Vitter raised a furor about lost jobs. (In late June, a federal judge struck down the moratorium.)

And yet, so long as the country charges ahead with drilling, a repeat of the Gulf fiasco is entirely possible. In the aftermath of the spill, the administration has focused on putting a temporary hold on 33 new deepwater-drilling endeavors, while hundreds of existing projects continue to go forward—even though many of them received the same thin scrutiny that *Deepwater Horizon* did. (In the Beaufort Sea, for instance, BP is still forging ahead with a controversial plan to construct an artificial island and drill miles below the water for crude, although Salazar recently ordered a fresh review of the undertaking.) And, while the administration clearly recognizes the need to proceed more cautiously, its grand drilling plan remains intact. Salazar has been careful to reassure the "drill, baby, drill" crowd that any proposed moratorium will only amount to a "pause" on new production. Even after the worst oil spill in U.S. history, the politics of drilling remain as difficult for Obama to navigate as ever.

Bradford Plumer

How Gross Is My Valley

America's toxic agricultural capital.

The tiny farmworker outcropping of Kettleman City is located in California's Central Valley, a 400-mile-long swath of some of the world's most productive agricultural land. The town of about 1,500 is bordered on three sides by crops, including almond trees and tomato plants, that extend for 20 miles. Populated mostly by Mexican immigrants and lacking sidewalks and gutters, Kettleman City is a poor place that usually doesn't draw attention. Earlier this year, however, the town made national headlines after residents reported that at least eleven local babies had recently been born with severe defects, including Down syndrome, missing brain parts, and cleft lips and palates. One was stillborn. Three died in infancy.

The birth defect cluster could be a statistical quirk, but it is much more likely that environmental factors are to blame. Many residents believe a toxic-waste dump three and a half miles from town has poisoned the air, soil, or water. Other possible culprits include air pollutants emitted by the 400 diesel trucks that deliver waste to the dump each day or the pesticides to which the town's farmworkers are routinely exposed. The pervasive uncertainty about what caused the defects has kept some women in the town from considering pregnancy.

The crisis in Kettleman City is just one example of the consequences that the Central Valley faces as industrial farming swallows the region's resources and contaminates its environment. Once called "the richest agricultural region in the history of the world," the valley, which is home to the nation's top four counties in agricultural sales, produces more food than any single U.S. state. It grows some 250 crops, including virtually all of the nation's almonds, olives, pistachios, and walnuts, and it is the country's leading producer of cotton, lettuce, tomatoes, and dozens of other commodities. But it is also where California leaves its detritus: Most of the state's feed lots, manure lagoons, and hazardous-waste dumps are located there. This willful pollution, compounded by destructive farming practices and climate change, has led to water scarcity, soil contamination, and, in some cases, diminishing crop yields.

What's more, many of the valley's residents, particularly the poorest ones, like those in Kettleman City, experience unusually high rates of cancer, heart disease, diabetes, and pesticide poisoning. Both air and water quality in parts of the San Joaquin Valley, the region's southern half, are considered among the worst of any place in the country; more than one in five children there has asthma. And the health problems aren't just regional: Outbreaks of diseases in other parts of the country have been traced back to food from the Central Valley.

Indeed, the valley is slipping toward a crisis that threatens to leave a ragged hole in the heart of California's economy and in the nation's agricultural infrastructure. While scientists are racing to respond to the problems industrial farms have created by rethinking the way crops are cultivated, many growers are just seeking ways to maintain their profits in the short term on increasingly limited resources.

The harsh reality is that there may not be any long-term solutions to the Central Valley's problems—at least, not ones that would protect the region's environment and residents while also insuring that it continues to generate $28 billion annually in agricultural products. Above all, the valley is likely a harbinger for the bleak future of big farming in the United States, as the destructive consequences of its disregard for the environment and human health come to light.

Environmental depredation in the Central Valley is nothing new. The region was once predominantly swamp, seasonal wetland, and prairie, but, in the second half of the nineteenth century, growers and their political allies began turning it into an agricultural engine. They diverted rivers, built canals and levees, and drained the largest inland body of water west of the Great Lakes, turning its exposed bed into cotton fields. The valley's three watersheds were mechanically merged into two, reversing water flows; even gravity was negotiable.

Vast farms now dominate the region. They've skewed water and land-use laws to their benefit and employ copious amounts of pesticides, finite groundwater, and irrigation water conveyed over long distances, all of which have increased the farms' productivity but heightened the valley's vulnerability to environmental ruin.

Water is the region's most pressing problem. In the early '80s, thousands of fish and waterfowl in a wildlife refuge in the northwestern San Joaquin died or were born with gaping deformities. The cause was identified as sele-

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nium in agricultural drainwater that had been pumped into the refuge to make up for freshwater that was being diverted to crops. In the valley's Westlands Water District, which includes land in Fresno and Kings counties, 100,000 of slightly more than 600,000 farm acres have been retired because of contamination by selenium, salt, and other minerals carried by irrigated water. And a University of California-Davis study from 2005 concluded that there is a two-in-three chance the poorly built levees on which the San Joaquin depends for water will experience a disastrous collapse by 2050.

Crops are also being squeezed out of increasingly spent ecosystems. Colony collapse disorder (CCD)—the sudden disappearance of bees that pollinate crops, probably caused in part by pesticide exposure and the low nutritional benefit bees derive from monoculture crops—reduced the valley's production of almonds, which typically accounts for 80 percent of the world's supply, by 16 percent last year. And climate change is exacerbating the ravages of big agriculture: A July 2009 study predicted that rising temperatures could eliminate the valley's peach, apricot, plum, cherry, walnut, and apple orchards by the end of the century.

On a human level, farms depend on minority and immigrant laborers who receive rock-bottom compensation and are exposed to serious health risks in the fields and their communities. A 2005 Congressional Research Service report found that the San Joaquin is even poorer than Appalachia, and cancer clusters pop up there every few years. Pesticide drifts, during which toxic chemicals are blown from fields to adjacent towns, happen more or less annually. The victims suffer vomiting, nausea, coughing, sore throats, irritated eyes, and assorted long-term damage. In 1999, a couple dozen vomiting and coughing residents of the town of Earlimart were rounded up by firemen, taken to a middle school football field, ordered to strip, and sprayed with a fire hose—which did nothing to alleviate their ailments.

Alarmingly, health problems sometimes extend much further: In December 2006, at least 81 people in Iowa, Minnesota, and Wisconsin suffered *E. coli* poisoning after eating lettuce at three Taco John's restaurants—lettuce that was eventually traced to a San Joaquin farm that relied on water contaminated by manure from a dairy next door. In 1985, about 1,300 people as far away as Canada and Hawaii fell ill after eating watermelons tainted by pesticides.

All of this portends a dark future for the Central Valley. To ward off disaster, many farmers are trying to switch to crops that require less water, and researchers are hurrying to develop genetically modified crops that can cope with higher temperatures, reduced water supplies, and diseases currently combated with pesticides. They are hampered, however, by cutbacks in government research grants. Moreover, while geneticists are learning how to make plants disease-resistant, their fixes would probably only work for a few years, until pathogens find ways around them.

In Kettleman City, residents hope that publicity about the birth defect cluster will force the nearby waste dump to abandon expansion plans, and prospects have improved for the construction of a new water-treatment plant that would make it safe to drink from local taps. Acting on an order from Governor Arnold Schwarzenegger, state officials are also investigating the cluster's cause.

But they doubt they can pinpoint it. And, even if they do and then go on to eliminate it, officials probably won't take the next critical steps: acknowledging the toxic conditions of the greater Central Valley and fighting the agricultural and economic forces that have created them. It's more likely that the valley will continue to decline. A levee collapse could jump-start the valley's ultimate disintegration, or it could decay gradually over many decades, as water supplies drop, crop diseases spread, and temperatures rise. Production of some commodities may diminish or end altogether. While other countries—starting with China—seek to make up the shortfall in agricultural products consumed by millions of people nationwide, the demand for farmworkers in the valley could drop, costing many people their jobs and worsening their already poor living conditions. Prices of many foods could jump nationwide, to the point that some foods might disappear from many Americans' diets.

There's a clear moral to the Central Valley's tragic story, one that, across the country, industrial farms and the states that support them would be wise to heed: Engineered victories over nature are transient, and, the bigger the technological triumph, the greater the ripples of the eventual collapse. *Jacques Leslie*

Jacques Leslie is the author of Deep Water: The Epic Struggle Over Dams, Displaced People, and the Environment, which won the J. Anthony Lukas Work-in-Progress Award.

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THE NEW REPUBLIC (ISSN 0028-6583), Vol. 241, Number 12, Issue 4,887, July 22, 2010. (Printed in the United States on June 30, 2010.) Published bi-weekly (except for skipped publication dates of March 4, April 22, August 5, August 26, September 16, October 7, November 25, and December 16 & 23, 2010) at 1331 H Street, NW, Suite 700, Washington, D.C. 20005. Telephone (202) 508-4444. Yearly subscriptions, $79.97; foreign, $119.97 (U.S. funds); Canada, $99.97 (U.S. funds). Back issues, $8.00 domestic and $10.00 foreign/Canada (includes postage & handling).

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The Heir

Western intellectuals love Muammar Qaddafi's hip, globe-trotting second son. Is he for real?

ELIZA GRISWOLD

Saif Qaddafi juggles two identities: traditional Arab leader and sophisticated modernizer.

The seven sons of Libya's longtime leader, Muammar Qaddafi, have each charted very different paths in life. Mohamad, the eldest and least favored, chairs the Libyan Olympic committee. Mutassim, the country's powerful national security adviser, mostly operates behind the scenes, although, some years back, he was caught attempting to privately procure tanks for the army unit he commands. Then, there's Saadi, a soccer enthusiast, who persuaded his father to make an exception to his edict that sports must be played by the people, not watched for fun. Naturally, once organized soccer was permitted, Saadi became captain of the national team; whenever he played domestic matches, his opponents would back away from him for fear that tackling him might be interpreted as an act of dissent. Saadi then signed on to play for Perugia, an Italian team, but his prowess didn't translate outside Libya. And so, after a few seasons, he retired, returned home, and is now in charge of a tax-free zone that the government hopes will become North Africa's Dubai.

Most infamous is Hannibal, who specializes in getting into trouble. He has made headlines for, among other things, assaulting two domestic servants in Switzerland. Some months later, his father declared jihad on that country. (Qaddafi's only daughter, Ayesha, a lawyer who served on Saddam Hussein's defense team, also threatened retribution.) Little is known about the two youngest sons: Saif Al Arab, a student, and the rather thuggish Khamis, a police officer who can often be spotted in his father's bloated entourage.

The odd one out is Qaddafi's second-oldest son, Saif Al Islam. The 38-year-old Saif has his fiefdoms, too—he directs Libya's sovereign wealth funds, worth some $70 billion, as well as much of its booming construction sector. But what sets him apart from his brothers is his unusual role as the quasi-official advo-

Zina Saunders

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cate for democracy in a nation that his father has ruled implacably for 40 years.

I met Saif this spring at his persimmon-colored villa in Tripoli. Although the house is surrounded by a security perimeter, four checkpoints, and a lawn that would pass muster at Wimbledon, Saif referred to it humbly as "the farm." Inside, two stuffed Bengal tigers reclined on the marble floor. Until they died of natural causes some years ago, Fredo and Barney were Saif's beloved pets. In a tiled atrium, he pointed to a photograph of the tigers. "Here they are younger," he said. A coffee table was piled high with books, from John Kenneth Galbraith's *The Great Crash of 1929* to *Hip Hotels*. "I've read thousands of books," Saif said, although, when I asked which he liked best, no particular title sprang to mind. Saif is also a keen artist. An exhibition of his expressionist paintings (his father and the tigers are popular subjects) opened this year in São Paulo and Moscow, although not to critical acclaim: An art writer for *The Guardian* declared that Saif's "sentimentality is only exceeded by his technical incapacity." We moved into the study, which was dominated by a large television. Saif had no trouble naming his favorite movie: the gory 2004 slasher flick *Saw*. He also told me that the American he would most like to meet is Dick Cheney, and then hastily added, "Just joking." Throughout our conversation, he appeared anxious not to stray off message.

Saif is more than six feet tall, with a shaved head and hip, rimless glasses. He juggles his two identities—traditional Arab leader and Western-educated modernizer—with care. When I met him, he sported a royal blue kurta with a goldenrod-hued rug tossed over one shoulder; in public, however, he favors bespoke business suits, with three-pointed handkerchiefs tucked in the breast pockets. Saif's friends include Nat Rothschild, scion of a powerful British banking family, and he's acquired an enthusiastic following among certain Western intellectuals. Benjamin Barber, the author of *Jihad vs. McWorld* and an adviser to the Libyan government, told me, "I don't think there has ever been a young political leader in a ruling family who's had such extraordinary insight into Western political thought."

Saif's polish and prestigious friends make for a conspicuous contrast to his father, who was, for many years, shunned by the Western world for harboring terrorists and for bankrolling notorious despots such as Charles Taylor and Idi Amin. In recent years, however, Libya has swiftly shed its pariah status. The United Nations lifted sanctions in 2003, the United States followed suit in 2004, and, in 2006, the Bush administration removed the country from its list of states that sponsor terrorism. Saif, who is often presumed to be his father's successor, has played a prominent role in this rehabilitation. Last year, in an event that marked Libya's improved standing in the world, he negotiated the release from prison of Abdelbaset Al Megrahi, who was convicted for the 1988 bombing of Pan Am Flight 103 over Lockerbie, Scotland. And Saif has ambitious plans. He wants to end Libya's economic dependence on oil, rewrite its repressive penal code, and draft a constitution, which the country has lacked since 1977. The question, however, is whether it's really possible for a man named Qaddafi to bring democracy to Libya.

To drive through the streets of Tripoli is to take an architectural tour of nearly 2,000 years of absolute rule, from the arch constructed by Marcus Aurelius in 163 C.E. to the gleaming petrodollar towers stretching skyward. Downtown, between the Mediterranean Sea and Green Square, stands a red castle built on the remains of an old Roman settlement. In 1790, as legend has it, one crown prince named Yusuf Karamanli invited his two brothers to discuss succession in the castle's study. After they reached an agreement, he ordered a servant to fetch the Quran so they could swear on it. The servant returned with a pistol. The crown prince murdered his brothers and went on to rule Libya for nearly 40 years.

Muammar Qaddafi did not seize power with quite the same élan—he ejected Libya's monarchy in a bloodless coup in 1969—but he has maintained his authority for even longer than the crown prince. He governed according to a system he called "Islamic socialism," which he outlined in his 1975 revolutionary manual, the Green Book. This eccentric document combines Qaddafi's political philosophy with musings on breast-feeding and horse racing and maintains that the country is ruled not by Qaddafi—whose official title is "brotherly leader and guide of the revolution"—but directly by the people. In truth, Qaddafi's power has been absolute. Opposition was crushed ruthlessly at home; during the 1980s, the government dispatched hit squads to murder dissidents abroad. As foreign pressure mounted on his regime, Qaddafi remained defiant—through the blowback from the Lockerbie bombing in 1988, nearly two decades of tough economic sanctions, and an attempted ouster by the administration of Ronald Reagan, who famously dubbed Qaddafi the "mad dog of the Middle East."

In the 1990s, however, Qaddafi appeared ready to emerge from the doghouse. In 1999, he sent the suspected Lockerbie bombers to The Hague for a trial. American and British officials soon held their first direct talks with Libya in 18 years. Not long afterward, American oil executives returned to Libya, where billions worth of frozen assets awaited them. The U.K. restored full diplomatic ties; Libya was opening for business.

But the real turning point came on September 11, 2001. The threat of radical Islam was old news to Libya—it had been the first nation to issue a warrant for Osama bin Laden's arrest, in 1998, after Muslim militants had attempted to assassinate Qaddafi. Following the attacks, the government was eager to share with the United States intelligence on terrorist networks. Bigger concessions followed. In August, Libya agreed to pay reparations to the families of victims of the Lockerbie bombing, and, in December, Qaddafi gave up his nuclear weapons program and renounced terrorism. In 2008, the United States sent its first ambassador to Tripoli in more than 35 years. Libya had transformed from one of the most reliable villains on the world stage to a U.S. partner in the war on terror.

When I met Saif at "the farm," he regaled me with a practiced narrative of his formative years, in which Libya's outcast status had inspired him to end its isolation. "I had a very hard life," he began. We were standing in the grounds, outside an enclosure that housed a fluffy orange tiger cub scuffling playfully in the dirt. Saif described a night when he was 14 years old and awoke to the sound of U.S. F-111 fighter jets dropping 2,000-pound bombs on his house. His mother dragged him to a secret underground bunker, where he huddled with his father and siblings. "The whole world was closed to me," he said, recalling the times that he was denied visas to study in Switzerland, France, and Britain and, then, briefly admitted to a university in Austria, only to be ejected from the country by its head of security. "I was very upset, but I decided that I would change this sad picture."

Saif initially studied architecture in Belgium but gravitated toward politics after his father began to seek out brand-name scholars to advise Libya on reform. (Benjamin Barber said that Muammar Qaddafi contacted him after reading about him on the Internet.) With his father's blessing, Saif became the country's most high-profile proponent of liberalizing Libya. He obtained a Ph.D. from the London School

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of Economics, where he read Rousseau, Locke, and Weber, and wrote his dissertation on comparative democracy.

Saif has championed numerous innovations, including a watchdog organization that polices corruption. Under his watch, Libya plans to invest $124 billion in new infrastructure projects, in an effort to build an economy that runs on more than crude. The results are visible: Along Tripoli's washed-out skyline, red building cranes swing in wide arcs above sandy plots of earth.

Saif told me that he considers the writing of a constitution to be his flagship initiative. Despite the many changes that have come to Libya, its political system remains constricted. "There's no freedom of the press. You cannot freely choose your leaders. It's still a cult of personality," said Daniel Byman, the director of Georgetown University's Center for Peace and Security Studies. I asked Saif how the constitution project was progressing, and he said a draft exists but had not yet been made public. "My father is not very enthusiastic about this project," he admitted. "Hopefully, one day, he will accept it."

Despite his zeal for democratic institutions, so far, Saif has used the authority of the state to advance his cause. He runs the only domestic human-rights organization permitted in the country—the Qaddafi International Charity and Development Foundation. I was first invited to Libya last fall by the foundation to witness its efforts to reform the Libyan Islamic Fighting Group (LIFG), a militant outfit that has repeatedly tried to overthrow Qaddafi's government.

During the 1990s, the LIFG, like Al Qaeda, found safe haven in Afghanistan and Sudan. But its mission has primarily been to build an Islamic state in Libya, not to join Al Qaeda's global jihad. After September 11, many of the group's leaders were arrested by the United States and detained at Bagram Airfield in Afghanistan and other international facilities. (One of these senior members, a religious scholar named Abu Yahya, escaped from Bagram in 2005, linked up with Al Qaeda, and is now regarded as its most senior leader after bin Laden and Ayman Al Zawahiri.)

In 2005, the United States returned LIFG leaders to Libyan custody, as part of an effort to send detainees back to their home countries. Saif claims that the Americans asked his foundation to "monitor" these prisoners, although he won't say who made this request. (The State Department did not return calls seeking comment.) In 2007, Saif met Noman Benotman, a charismatic former LIFG leader, in London. He asked Benotman to discover if his former associates would be willing to renounce their jihad. When Benotman visited the LIFG leaders in Libya's Abu Salim prison, they told him they were ready to stop fighting. This meeting launched two years of discussions between the LIFG and the Libyan government, in which the Qaddafi foundation served as the go-between.

Then, last fall, Abu Yahya's brother, Abu Idris, along with five other LIFG leaders, issued a 400-page-plus document titled "Corrective Studies"—essentially a religious argument against global jihad. The leaders denounced the killing of innocents, including "women, children, elderly people, priests, messengers, traders." Jihad, they wrote, was only lawful for Muslims whose countries were being occupied by foreign forces. "Corrective Studies" was hailed as the most significant theological repudiation of Al Qaeda by Muslim militants. Saif, as is his habit, claimed the document was his idea. "I told them, 'You should write this.' It helped me with my father."

A tall man in sunglasses was following me with a video camera, posing as a journalist.

In late March, Saif held a conference for a small group of high-level Western counterterrorism analysts to demonstrate the progress his foundation had made with the LIFG. One crisp morning, the attendees were taken by minivans to Abu Salim prison, a low-slung, sand-colored, stucco building in a dusty Tripoli suburb. Saif had a surprise in store.

For Libyans, Abu Salim evokes grim memories. In 1996, according to Human Rights Watch, some 1,200 prisoners were killed here—many of them executed by impromptu firing squads. Most had been accused of being Islamists intent on plotting to remove the Qaddafi regime. For nearly a decade, families didn't know if their sons were alive. Saif has promised to investigate the massacre, but his report is more than a year overdue.

After arriving at Abu Salim, we walked a quarter of a mile down a macadam driveway. Suddenly, inmates dressed in crisp white kurtas and shiny black nylon vests began pouring out of the prison, cheering, "Thank you to my friend Qaddafi and his son Saif Al Islam." The men made their way toward white plastic lawn chairs that had been placed under a nearby tent. Then, more people began pushing their way through the prison gates—the prisoners' families. Mothers squeezed their sons' cheeks and wept.

Not everyone was won over by this joyful scene. "How do you like my uniform?" one man walking next to me muttered sarcastically in English. He was clad in rough cotton and a shepherd's vest. "I spent thirteen years on your West Coast. I've dressed this way to look like a stupid old man, so they won't track me." He looked away from me, barely moving his mouth as he spoke. "Please, we are looking to you for help. This is not a country; it's an asylum. This is not a government; it's one man. The father is simply trying to appoint the son. There are thousands of young men in prison. Look, they're filming everyone you talk to." Sure enough, a tall man in sunglasses was following me with a video camera, posing as a TV journalist. When I glared at him, he swung the lens away.

Nearby, I saw two men hugging each other. One said he'd received a phone call the previous night, informing him that his brother would be released after being held incommunicado for three years. "He is a student. They came and took him at 5 a.m. saying he had dangerous books about Islam," he said. The newly released man shrugged. "I'm out today. I may be back in tomorrow." His brother was more hopeful. "Saif is better than Qaddafi," he insisted. "Saif's not a soldier, at least. He has a doctorate."

That afternoon, Saif held a press conference in a brand-new luxury hotel in downtown Tripoli. Two-hundred and fourteen inmates had been released. Thirty-four belonged to the LIFG, including three of its six top leaders. One hundred more were former jihadists who'd fought against the United States in Iraq. The remaining handful belonged to other Islamic groups suspected of plotting to overthrow the Libyan government. Thanks to Saif, they were now free men.

The prisoner release was an ingenious move. Saif had demonstrated that a militant group could be persuaded to publicly denounce its former terrorist allies. "The implication is pretty radical," said Jarret Brachman, the former director of research at West Point's Combating Ter-

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rorism Center. "The Libyans might hold one of the keys of success to the war with Al Qaeda." But, while the members of the LIFG had ostensibly gone through "demobilization"—which at least included perfunctory meetings with religious teachers and prison officials—no one, including Saif, knew whether the other freed prisoners had been rehabilitated. "What matters to the international community is not just are [the released prisoners] targeting Qaddafi and his family," said Jessica Stern, a lecturer at Harvard's Kennedy School of Government. "What matters a lot is if they've given up fighting jihad against the West." Of that, there was no guarantee.

SAIF'S account of his work makes for a compelling tale, in which the idealistic son persuades his father to open his country to the West. But Libyan insiders have a different interpretation of these events. They say Qaddafi was motivated by the knowledge that Libya's oil is expected to run dry in 30 years—and by the unsettling experience of watching the downfall of his friend Saddam Hussein. Qaddafi didn't want to "end up in a hole," said Mahmoud Jibriel, chairman of the Economic Development Board, a governmental think tank. And even Saif's boosters concede that his proposals owe a debt to his father. "Whatever their relationship … none of this could happen against [Qaddafi's] wishes," said Barber. Hafed Al Ghwell, a Libyan intellectual based in Washington, D.C., offered a different assessment: "Saif is being used in many ways by the system," he said, "to give a Westernized feel to it."

Among Qaddafi's sons, Mutassim is thought to pose the most serious challenge to Saif. He is allied with the security apparatus and the aging, conservative members of his father's regime. However, last October, Muammar Qaddafi instructed the regime to find his son a government position, like general coordinator of the people's committees, the equivalent of secretary of state. This was the clearest sign yet that Qaddafi intended Saif to succeed him. But Saif told me that he had declined his father's offer—and he dismissed my questions about family succession. "All the time, people are trying to create enemies for me, the old guard, my brother—to sex it up," he said. He has repeatedly insisted that he'll only serve in the government if he's elected. "We want to have a democracy and constitution and institutions. It's not my goal to be part of the political machine. My goal is to create a better life for the Libyan people," he insisted. "Has there been a shift in Libya? The answer is yes, definitely," said Heba Fatma Morayef, a researcher for Human Rights Watch. But, she added, "What if Saif is out of favor tomorrow? Do these new freedoms apply to anyone whose name isn't Qaddafi?"

Muammar Qaddafi in 1970, soon after seizing power in a bloodless coup.

A few days after the prisoner release, I paid a visit to Ahmed Rahal, the news editor at Al Ghad, Libya's only "semi-independent" news company—which, inevitably, is owned by Saif. The newsroom looked like newsrooms everywhere. Rahal, a heavyset man with the weary gait of an overworked editor, was interrupted every few minutes to take calls from correspondents covering the Arab Summit that week in Qaddafi's home town of Sirte. He spoke with a slight Manchester accent—he had only recently returned from London, where he'd worked for the U.K.-based independent Libyan news site *Al Youm*. The Libyan government periodically blocks access to *Al Youm*, and has sometimes shut down Al Ghad's two newspapers, claiming they owe the government hundreds of millions of dollars in printing costs.

I asked Rahal if he thought the prisoner release was significant. "This was a very big deal," he said. Two months earlier, Muammar Qaddafi had called the Islamists "terrorists" and vowed that they would never leave prison. The release proved that Saif could stand up to his father. But Rahal was more circumspect when it came to Saif's political reforms. "It's not an easy question," he said. That he'd felt safe to come back to Libya after working for *Al Youm* was in itself a sign that something was different. Admittedly, internal security had hauled him in for questioning not long after his return. The agents asked him whether or not he'd read the Green Book and what he thought of the brotherly leader's ideas. Rahal told them, "When I lived in Libya, and you forced me to read it, I didn't read it. When I went to London and was free not to read it, I read the Green Book and found that the leader had some very good ideas, but that the people around him have used them to destroy the country." After the interview, he was still permitted to go back to work.

"Twenty-five years ago, this would have meant prison," he pointed out. Now, his news agency was beginning to take on human rights issues. Recently, it had been investigating the brutal abuse of women who are found guilty of "crimes of honor" and sent to so-called rehabilitation centers that operate more like prisons. But, when I asked him whether Al Ghad could report freely, he answered that there were limits, of which Libyans are well aware. "Saif has said there are four red lines: Islam, splitting up the country, national security, and the fourth and the last is Muammar Qaddafi."

Eliza Griswold, a fellow at the New America Foundation, is the author of THE TENTH PARALLEL, *which will be published this August.*

AP PHOTO

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Operation Sabotage

Our secret war against Iran.

ELI LAKE

Our efforts to stop Iran from getting a nuclear weapon seem to be in tatters. President Obama spent his first year in office trying to resolve the matter through détente. He offered negotiations, sent a conciliatory letter to Iran's supreme leader, and was slow to publicly support the demonstrations that followed the June 2009 elections. Last fall, the United States sponsored an International Atomic Energy Agency (IAEA) deal through which Tehran would have been able to swap out its dangerous spent fuel for uranium suitable to be used in power generation. But this outreach was spurned, and Iran's nuclear program continued.

Next, the Obama team shifted to a tougher approach—namely sanctions, which were passed by the U.N. Security Council earlier this month. But Tehran has been under international sanctions for a long time now; and, as anyone who has watched Iran policy over the last ten years can tell you, U.N. sanctions are only as good as the enforcement provided by individual countries. How Russia—which has aided Iran in acquiring ballistic missiles and a nuclear reactor—will enforce these latest sanctions is anyone's guess. Moreover, even if the sanctions are faithfully carried out, there is no guarantee they will have their intended effect. Far more crippling sanctions in the 1990s failed to force Saddam Hussein to fully cooperate with U.N. weapons inspections. Does anyone really doubt that the men in charge of Iran would let their citizenry endure economic pain in order to build a nuclear weapon?

There is, of course, the possibility that the United States or Israel will bomb Iranian nuclear facilities. But this option risks an all-out regional war. And, with Iran's nuclear facilities scattered and buried deep underground, there is no guarantee that a strike would damage the program enough to be worth the steep geopolitical costs.

And so, the most commonly discussed options on the table range from ineffective to problematic. Yet there is one more possibility for forestalling an Iranian nuke—something that is almost never talked about publicly but that has in fact been central to our Iran policy for years. One Jewish organization leader who has frequent contact with the administration describes the line from the White House and State Department as follows: "You know we don't have all our eggs in one basket. There are all sorts of means at our disposal that we cannot talk about." "The clear inference," this person explains, "is that they are talking about black ops stuff to screw up the Iranian program."

Sabotage has always been a staple of modern warfare. In World War I, for example, the Germans rigged U.S. and Canadian weapons to explode in New Jersey. But a more complicated genre of technological sabotage dates to the first term of the Reagan administration. A special KGB unit known as Directorate T and its operations wing called Line X had—through dummy corporations and a network of black-market smugglers—managed to obtain computers, airplane parts, and sophisticated machine equipment the Soviet command economy was incapable of producing itself. Luckily for the West, however, a KGB colonel named Vladimir Vetrov was working for French intelligence—and, in thousands of pages of photographed documents that came to be known as the "Farewell Dossier," he provided detailed information on Line X.

Starting in the early '80s, the CIA—with the cooperation of the FBI and military—launched a massive operation to feed Line X equipment that was modified to sabotage Soviet industrial and military operations. In 1996, former National Security Council official Gus Weiss published an account of the program, which he had helped conceive, in *Studies in Intelligence*. "American industry helped in the preparation of items to be 'marketed' to Line X," he wrote. "Contrived computer chips found their way into Soviet military equipment, flawed turbines were installed on a gas pipeline, and defective plans disrupted the output of chemical plants and a tractor factory."

Ever since the late '90s—a few years after Western intelligence services became aware of a Chinese sale of yellowcake uranium to Iran—these kinds of operations have been a mainstay of Washington's policies toward Tehran. The operations are state secrets, not just a "secret" like the use of drones in Pakistan to kill Al Qaeda leaders, something that Obama joked about in his speech at the White House Correspondents' Dinner. Indeed, the government takes these secrets so seriously that it is threatening *New York Times* reporter James Risen with jail time if he doesn't reveal his sources for a chapter of his 2006 book, *State of War*. That chapter disclosed a U.S. intelligence plan from 2000 that sent a Russian nuclear scientist on the CIA payroll to Vienna to hand over flawed bomb design plans to the Iranians.

But, while such sabotage efforts don't get much public attention, almost everyone familiar with counterproliferation says that these schemes are being directed at Iran's nuclear program. In *New York Times* reporter David Sanger's book *The Inheritance*, published at the end of the Bush administration, he wrote about sabotage efforts targeting Iran. David Kay, who led the U.N. weapons inspection team in Iraq between 1991 and 1992, as well as the U.S. effort to find those weapons after the 2003 invasion, says he is positive that such sabotage is taking place. "I am certain based on the history of other programs against Iraq and other possible proliferators that activities to make it more difficult to obtain and to operate items crucial to their nuclear weapons program are ongoing," he explains. "The Israelis have been doing this for years and so have the British." Michael Adler, an expert on Iran's nuclear program at the Woodrow Wilson International Center for Scholars in Washington, put it this way: "It seems to be clear that there is an active and imaginative sabotage program from several Western nations as well as Israel involving booby-trapping equipment which the Iranians are procuring, tricking black-market smugglers, cyber-operations, and recruiting scientists." Three current U.S. government officials confirmed that sabotage operations have been a key part of American plans to slow down the Iranian program—and that they are continuing under Obama.

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Iran, apparently, has several entities that would be the equivalent of the old Soviet Line X. There are special units of the Iranian Revolutionary Guard that are devoted to purchasing illicit technology for Iran's missile program, for example. Iran's Atomic Energy Organization also has special bureaus that focus on procurement. And Iran has front companies such as the Kalaye Electric Company, which has been sanctioned by the Treasury Department for attempting to purchase specialized magnets needed for centrifuge operations.

Efforts to steer defective products toward Iran have taken a number of forms. For instance, according to a former Mossad operations officer who goes by the alias Michael Ross, in 1998, the Mossad and the CIA developed a plan to sell a supposedly helpful chemical substance—which would, in fact, gum up centrifuges over time—to Iran on the black market.

Then, there was the odd case of the Tinners, a Swiss family of engineers long believed to be a cog in the network of nuclear proliferators organized by Pakistani scientist A.Q. Khan. In 2008, Urs Tinner admitted that he had been a CIA asset. And it turns out that he played a crucial role in an effort to sabotage Iran's nuclear program. According to David Albright—the president of the Institute for Science and International Security and the author of a new history of Iran's illicit procurement of nuclear technology, *Peddling Peril*—the Tinners sold high-quality vacuum pumps to the Iranians and Libyans. The pumps are crucial for uranium enrichment because centrifuges must operate inside a vacuum seal. The Tinners' pumps were produced in Germany, but were originally purchased by the Oak Ridge and Los Alamos laboratories. These labs, Albright says, had modified the pumps "to bug them or to make them break down under operational conditions. If you can break the vacuum in a centrifuge cascade, you can destroy hundreds of centrifuges or thousands if you are really lucky." (A senior intelligence official confirmed Albright's story to me.)

Sometimes, these operations do not end well. Ali Ashtari, a high-tech electronics vendor, was hung by Iran in 2008 after he confessed to bugging the equipment of senior Revolutionary Guard figures with viruses and GPS units provided to him by Israel. Ronen Bergman, the top intelligence reporter for the Israeli newspaper *Yedioth Ahronoth*, believes that Ashtari was an "example of how someone—the Iranians claim it's the Israeli Mossad—tried to sabotage the Iranian nuclear project by covert means, rather than an air strike." Adds Bergman, "Ashtari was executed, but other entities continue to sabotage the project."

But do sabotage efforts work? In late 2008 and early 2009, the IAEA began to see a drop in the amount of low-enriched uranium (LEU) being produced at Natanz, the facility that lies at the center of Iran's known nuclear weapons program. In the fall of 2008, its centrifuges were producing 90 kilograms a month of LEU. By the end of the year, however, the same centrifuges were producing 70 kilograms of LEU. To be sure, that number was back up to 85 kilograms per month at the close of 2009, and it has been climbing since, to around 120 kilograms a month; but those increases came after the installation of more centrifuges—all of which suggests that at least some of the machines were less efficient than they should be.

Ivan Oelrich, a nuclear scientist and the vice president of the strategic security program at the Federation of American Scientists, estimated in a study this year that the centrifuges are operating at 20 percent efficiency. "We know the average efficiency of the centrifuges is dismal. We don't know whether it is because of the quality of the individual centrifuges or how they are linked together," he explains. "We can't rule out sabotage as one factor leading to these inefficiencies." Greg Jones, a nuclear analyst at the RAND Corporation, says the Iranians "are operating just under four thousand machines, but they have installed about eight thousand five hundred. Those nonoperating machines have been installed for many months. Why they are not operating is not clear."

Among people I spoke to, there seemed to be a broad consensus that sabotage was, at the very least, slowing Iran's quest for a nuclear weapon. A senior administration official told me that there was evidence the Iranians are experiencing delays due to "a combination of reasons—some inherent to the nature of the infeasibility of the design and the machines themselves, and some because of actions by the United States and its allies." Explains David Kay, "History says that these things have done more to slow programs than any sanctions regime has or is likely to do."

However, the biggest payoff from these efforts may not come from the sabotage itself, but from the psychological effect it could have on Iran's government. At the most general level, there are probably benefits to keeping Iranian intelligence officials paranoid and off-balance, simply because it can cause them to waste valuable time and resources. This appears to be happening. In 2007, for example, Iran's state-run news service reported that the national police had arrested a cell of spy squirrels. The next year, Iran reportedly arrested a group of spy pigeons.

But the specific benefit of sabotage is that it makes countries wary of purchasing crucial materials on the black market. In 1982, when Gus Weiss proposed the modified-equipment operation to then–CIA Director William Casey, he said his plan was a rare espionage endeavor that would succeed even if compromised. "If some double agent told the KGB the Americans were alert to Line X and were interfering with their collection by subverting, if not sabotaging, the effort, I believed the United States still could not lose," Weiss wrote. "The Soviets, being a suspicious lot, would be likely to question and reject everything Line X collected." The same principle now holds with Iran. According to the senior administration official, sabotage "forces the Iranians to make machine parts themselves." And that, in turn, can slow down the process of producing a nuclear weapon.

In the end, however, there are almost certainly limits to how much the West's sabotage campaign against Iran can accomplish. "These programs are enough to cause the Iranians some problems, but they don't imperil the Iranian drive to enrich uranium," says the Wilson Center's Adler. Indeed, Adler thinks the inefficiencies at the Natanz plant could be chalked up to the inexperience of the scientists or the poor quality of the design, rather than sabotage.

The view among most officials and observers seems to be that sabotage is helpful but not, on its own, the answer. Uzi Dayan, a retired major general in the Israel Defense Forces and a former national security adviser to both Ariel Sharon and Ehud Barak, put it this way: "At the end of the day, this approach can delay the program and slow it down. It can put obstacles in the way. But it cannot prevent Iran from achieving their goal." "Every president since Clinton has tried covert operations to disrupt Iran's nuclear program. Bush did it, Obama is doing it. The problem is, it's not a substitute for sound policy," says Henry Sokolski, the executive director of the Nonproliferation Policy Education Center. "It is a holding action. What they are not facing is that you have to somehow usher this group of rulers off the stage of history. It is a tough thing to do, it's not clear how you do it, and they have chosen not to try." ◆

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Stanley Kauffmann on Films

EARLY AND LATE

A smart distributor, on whom be peace, has decided to give a theatrical premiere to an early film by Yasujiro Ozu. This is good news, not just because the film itself—*I Was Born, But…*—is endearing but because it draws further attention to this Japanese master. Much of Ozu is available on DVD, including this film, but more theatrical recognition may increase this country's care for a wonderful artist.

Ozu (1903–1963) began to direct in 1927 and made a total of fifty-four features. He is best known here for the group of pictures that began in 1949 with *Late Spring* and concluded with *An Autumn Afternoon* in 1962. Couched in differing subtleties, these later films share, in some degree, one quality. The poet and dance critic Edwin Denby said often that what he prized most in ballet was stillness, which I take to mean the recovery through motion of a resident serenity, an apprehension behind the dancing of quiet pure existence. This view relates to Ozu. The best among his last films, *Tokyo Story*, has a certain stillness behind all that we see and hear, a hushed apprehension of human mystery.

This earlier film we now see is not anywhere near the later films in depth, but it clearly was made by the same man. Ozu had previously made a surprising variety of films—he was then a contract director working for a studio—and he had intended this one, too, to be another comedy. The American film critic and historian Donald Richie, long resident in Tokyo, reports that Ozu said he had planned the film as "a fairly bright little story, but it changed while I was working on it." The titles credit the original idea to James Maki, who, says Richie, was really Ozu.

The film is silent. (Sound came belatedly to Japan.) A score, mostly piano, has been recorded with this new print. The cinematography is dated. But the film breathes from its first moments. A couple in their thirties, with two sons of about ten and eight, are moving to the suburbs of a city. We first see a wheel spinning in the dirt: a small pickup truck, loaded with household stuff, is stuck. The father of the family keeps cranking the engine to start it, and it is only when the two boys jump off and push that the truck moves. Afterward, we can see that this small family action is a hint.

The neighborhood is somewhat grim, flat, brown, scarcely settled, the whole region crossed by tracks for trolley cars that speed along. The family has moved here because the father has a job with a company whose headquarters are nearby, and the boss has urged him to move into the area. They all visit the boss, a man about the father's age, who is very cordial, and amid the customary flurry of bowing, they are welcomed.

Their life begins out here. The father goes to work, the mother housekeeps. The boys set off for school, but they do not get there. A bunch of local boys, with a chief bully, molests them, and they falter. In fact, they become truants, fairly often. The father, however, is snug in his office routine, where, bowing and obedient, he gets along. (Surprisingly, the door to the boss's office is labeled "private" in English.)

Ozu is building a structure of parallels: the boys in their society, the father in his. At one point the camera travels down a long line of desks with workers and soon travels down a line of somewhat less docile schoolchildren at their desks. The boys' truancy is discovered: the father asks them why they do it and encourages them to take their rightful places. The brothers note their father's servility and ask him why he bows and scrapes to his boss. At a party the father even makes funny faces for the boss so that he can be laughed at. He then explains gently to his sons that he needs the job, needs the money, so that they can go to school and can eat. This doesn't encourage their school attendance and also leads to their hunger strike—an attempt to relieve their father. Both sets of troubles move to a conclusion.

I WAS BORN, BUT...
IFC Center

WILD GRASS
Sony Pictures Classics

ALAMAR
Film Movement

The performances are all pleasing, familiar in the sense that we know these people. Ozu shows here the gift for handling children that was often manifested in his work. Even more marked are the elements that seem to forecast *Tokyo Story*, far-off though it still was. First, there is the family as the unit of experience, the vehicle in which, happily or otherwise, people move on. Part of that unit, quietly powerful, is the gap-and-closure between parents and children. And the trolleys, too, are thematic: they move constantly in the background, sometimes closer. In *Tokyo Story*, which mostly takes place in a seaside town, ships pass frequently. The idea of passage is inherent. Even these dinky trolleys in this early work seem to imply, "Worry if you must. You too will pass."

In contrast, here is a new work by an elderly eminence. Alain Resnais is now eighty-eight, which hasn't hindered him from sending us a purportedly light-fingered romance. *Wild Grass*,

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adapted by Alex Reval and Laurent Herbiet from a novel by Christian Gailly, is unmistakably a Resnais work from its very opening.

He lately was given a Lifetime Achievement Award by the Cannes Film Festival, which made me feel grateful and relieved. His lifetime persona is for me more important than any of his individual works. All through his career, it has been clear that he is imaginative, innovative, concerned to explore and expand the precincts of film. Particularly he has explored the mercurial elements in human sensibility. But I have never been convinced that any of the Resnais films that I have seen—a good many—was fulfilling his talent and ambition. His early features *Hiroshima Mon Amour* (1959) and *Last Year at Marienbad* (1961) set many critical typewriters ablaze, but for me they were more artistic effort than achievement. He has since made many other kinds of films, but for me always with more ambition than result.

So, I must add, is his latest. *Wild Grass*, not for the first time in the Resnais career, deals with the large results of a small incident. A middle-aged man picks up a woman's discarded wallet, thrown away by a purse-snatcher, and his life changes. He is (apparently) retired, a moderately settled husband, father, and grandfather, tormented only by the fibrillations of mind and temper of people entering the coda of their lives. The wallet's owner, it eventually appears, is a female dentist, somewhere in her early forties. The result is far from a conventional romance. Hesitations occupy more than anything like snuggling.

The meeting of the two takes considerable time, partly filled by the man's vacillations at the police station where he turns in the wallet. And when the two do meet, we are asked to believe that this ultra-chic dentist who is also a private pilot is interested in this nervous older man. (Indeed, we are asked to believe that a female dentist would wear a huge mop of frizzy red hair.) But it is soon apparent that Resnais is somewhat more interested in his storytelling than his story. A battery of devices, some of them his own, some of them inheritances from the New Wave of which he was a part, explodes all along. The title is "explained" cursorily by occasional shots of grass growing in unlikely cracks. There are insert shots in which a character is seen talking to himself: there are freeze frames, an iris shot, even a closing reference to Truffaut's *Jules and Jim*. Throughout, we are aware of the director's dogged aim to be sprightly and vivacious.

The two leading actors are Resnais veterans. André Dussollier is competent as the timidly adventuring man, but he simply doesn't have sufficient personality to brighten his perfectly adequate acting. Sabine Azéma as the dentist-pilot is a bit of a puzzle. Neither she nor Resnais seems certain about the character. She moves through the role briskly, but we are never quite sure who she is. Nonetheless, after Resnais's career of high-level vision, good for the Cannes judges.

Alamar is an idyll, so seductively lulling, so enjoyable, that even while we know it must be somewhat idealized, we don't want too much realism to spoil it. Yet, oddly, the realistic elements in it increase its charm.

Pedro González-Rubio is a Mexican film-maker enchanted by the lives of fishermen near a great coral reef in the Gulf of Mexico. To capture the quality of their lives, he has taken what looks like a real-life situation and has made a quasi-documentary about it. A young couple who live near a Mexican city, Jorge and Roberta, decide to split when their son, Natan, is about five. Roberta will take Natan back to her native Italy, but she agrees that Jorge may have the boy for the summer before leaving.

Father and son go to stay with Jorge's father, Nestor. He is a grizzled fisherman who apparently never wears anything but swimming trunks and loves his life. Based in Nestor's reed-roofed floating cabin, Natan then spends days and nights fishing and learning—in many ways. There is no trace of a story: day simply follows blissful day.

The setting is exquisite. Sunrises and sunsets are, in two senses, heavenly, and they are only part of the beauty. Natan gets very practical fishing lessons from Jorge—which are part of the idyll—and in the course of time he is even permitted to put on a snorkel and do some underwater fish-spearing. Lobsters, too. The catch is cleaned and sold nearby while Nestor beams. We see after a while that what Jorge is giving Natan is a perfect boyhood dream—to have forever. At the end Natan scratches a note and puts it in a bottle. It closes the dream with a small pang.

González-Rubio edited his film and did most of the camera work, which is pluperfect. Some underwater photography—magical—is provided by David Torres Castilla and Alexis Zabé. A tug, however. No one who worked on the film could have foreseen that nowadays there must be a dark afterthought: BP. ◆

Jeffrey Rosen

WHY BRANDEIS MATTERS

The Constitution and the crash.

LOUIS D. BRANDEIS: A LIFE
By Melvin I. Urofsky
(Pantheon, 955 pp., $40)

I.

In 1916, Herbert Croly, the founder and editor of The New Republic, wrote to Willard Straight, the owner of the magazine, about the Supreme Court nomination of Louis Brandeis. Croly enclosed a draft editorial called "The Motive of Class Consciousness," and also a chart prepared by a lawyer in Brandeis's office showing the overlapping financial interests, social and business connections, and directorships of fifty-two prominent Bostonians who had signed a petition opposing Brandeis's nomination. There are five circles on the chart delineating the various hubs of the Brahmin oligarchy: the Somerset Club, banker, State Street, Back Bay resident, and large corporation connections. On one side, the chart connects each of the signers of the petition, led by Harvard President Abbot Lawrence Lowell, to each of the five hubs; on the other side, the signers are connected to each other. "I want you to understand right away that this chart and article will not be published without your consent," Croly assured Straight.

Neither the chart nor the article ultimately appeared in TNR. Straight had worked for Brandeis's nemesis J. P. Morgan as the Morgan Bank's representative in China, and he refused to associate the magazine with "ideological recriminations against his friends and social acquaintances," according to an explanation accompanying the chart, which is now displayed in the current editor's office. But although Straight confirmed the power of what Brandeis called "our financial oligarchy" by killing the chart, the magazine continued to strongly supported his nomination. During the confirmation fight, Croly, Walter Lippmann,

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and Felix Frankfurter wrote vigorous responses to the attacks on Brandeis, and Brandeis later joked to Learned Hand that TNR should bear at least some responsibility for his confirmation.

During the past hundred years, the magazine has continued to champion the principles that made Brandeis the greatest constitutional philosopher of the twentieth century: opposition to the curse of bigness, in corporations and government; devotion to judicial restraint in cases involving economic regulations; judicial vigilance in cases involving free speech and civil liberties; and an enthusiasm for Zionism. But this is an especially appropriate time to evaluate Brandeis's legacy. The nomination of Elena Kagan to Brandeis's seat on the Supreme Court comes at a time when progressives are rediscovering the virtues of judicial restraint, as conservatives rush to court to challenge their political defeats in areas ranging from corporate campaign spending to health care reform and economic oversight. And a masterful new biography by Melvin Urofsky offers all the biographical details necessary for reassessing Brandeis's uncanny relevance.

Urofsky's book is the culmination of a career of invaluable scholarship on Brandeis. It is comprehensive, fair-minded, balanced, and altogether illuminating about the man who, in Urofsky's words, remained—throughout his four careers as a lawyer, reformer, Zionist, and jurist—"the idealistic pragmatist, one whose faith in time remained great." This is a definitive biography of Brandeis for our time. While Urofsky does not examine Brandeis's contemporary relevance, he provides the biographical details necessary for asking and answering an increasingly urgent question: what does Brandeis mean today?

As it happens, he means a great deal. Brandeis, who predicted the crash of 1929 and would have predicted the crash of 2008, was the most far-seeing prophet of economic regulation in an age of financial crisis and the most ferocious critic of "the curse of bigness" in an age that anticipated "too big to fail." More than any other Supreme Court justice of the twentieth century, he can instruct us in the need to translate constitutional values in an age of technological change. And as the leader of the American Zionist movement, he was the most prominent advocate of a vision of cultural pluralism that remains more salient than ever in an age of globalization and technological homogenization.

II.

After Jefferson, Brandeis was the most important American critic of bigness, in business and government; and his views about the need for citizens to achieve their potential in small-scale communities reflected his own upbringing and background. He was born in Louisville, Kentucky in 1856, the son of a wholesale grain merchant who had fled Prague after the revolutions of 1848. His parents prized books and music, and were not observant Jews—the Brandeis children exchanged Christmas cards and were chastised by members of the Jewish community in Louisville for riding on Yom Kippur. From his father, Brandeis absorbed the idyllic vision of a small businessman who, through hard work on a human scale, could provide for the needs of his employees, his family, and his community. He also learned about the dangers of the big banks who gambled with "other people's money": his father was wiped out in the Panic of 1873, after the collapse of Eastern banks left several of his clients bankrupt.

Brandeis's father then took the family to Europe for three years, to show his children their roots. After studying at the Annen-Realschule in Dresden, where he learned the importance of mastering facts, Brandeis returned to America and shone at Harvard Law School, earning the highest grades in the history of the school. His closest friend on the faculty was James Bradley Thayer, the acolyte of strenuous judicial deference, and he was also stirred by Emerson and Thoreau. After law school he set up a law practice in Boston with his classmate Samuel Warren, a Boston aristocrat, with whom he wrote, in 1890, "The Right to Privacy," published in the *Harvard Law Review,* one of the most famous law review articles in American legal history. It was inspired, according to Brandeis, by Warren's "deep-seated abhorrence of the invasions of social privacy" by the instant camera and the tabloid press.

In thirty-seven years of law practice, Brandeis became one of the most successful lawyers in America, hailed as "the people's lawyer" for representing the interests of family businesses and minority stockholders in fights against the rapacious monopolies of the Gilded Age. But although Brandeis came to be a leader of the Progressive movement, he saw himself as fighting for what Urofsky calls the traditional view of the relationship between the commonwealth and private businesses, in which the state defended the public interest, financial probity, and the accurate valuation of corporate property. By the turn of the century, however, this view was under siege by the modern view, championed by Wall Street bankers, which saw stock as an uncertain commodity that investors bought at their own risk. According to this view, widespread in the Gilded Age, the state had no role in regulating corporations beyond preventing outright fraud.

Brandeis cast himself as "counsel to the situation," a kind of Jeffersonian McKinsey consultant, representing the interests of both labor and management, and his crowning achievement as a reformer was savings bank insurance in Massachusetts, which identified an evil—the exploitation of poor workers by rapacious insurance companies—and a pragmatic, small-scale, legislative solution (selling insurance at fair prices through savings banks) that avoided heavy-handed government regulation. Brandeis considered the result "a perfect reform." He would have been suspicious of the centralizing tendencies of the Obama health care bill.

Brandeis's legacy as an economic prophet rests on *Other People's Money and How the Bankers Use It,* the remarkable book that he published in 1914, based on a series of prescient articles he had written the previous year for *Harper's.* Those articles were written to promote the findings of the Pujo Committee, a House banking subcommittee in 1912 headed by Arsène Pujo of Louisiana. Convened to investigate the excesses of the "money trust," the Pujo Committee concluded that a small group of Wall Street bankers had abused the public's trust by consolidating their control over banks and industries, choking off credit and competition in the process. Brandeis set out to enumerate the ways that "our financial oligarchy" threatened not only the American economy but also American democracy.

"The American people have as little need of oligarchy in business as in politics," Brandeis declared. In 1890, there was no national constituency about the dangers of corporate bigness; but twenty years later the Progressive movement had been so successful that presidential candidates in both parties crusaded against the money trusts, although they disagreed about the appropriate responses. In the presidential campaign of 1912, the Hamiltonian Theodore Roosevelt (with the help of Herbert Croly) argued for regulated monopoly, accepting the efficiencies of large industrial corporations, but countering them with strong government

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regulations. But for the Jeffersonian Brandeis, who advised Woodrow Wilson during the campaign, the problem was not industrial monopoly but financial oligarchy. He opposed big government as well as big business, and therefore he opposed also the central regulation of the money trusts. Instead he was determined to break up the trusts and to untangle the web of political and economic influence that made concentrated financial power possible in the first place.

The villain of *Other People's Money* was not Roosevelt's nemesis, the industrial monopolist John D. Rockefeller. It was Brandeis's nemesis, the financial oligarch J. P. Morgan. "And to think, he wasn't even a rich man," Rockefeller reportedly said when Morgan died in 1913 and his estate was reported to be worth $80 million, compared to Rockefeller's worth of almost a billion. Rockefeller missed the point that Brandeis grasped. Morgan's power came not from his own money, but from the billions of dollars of what Brandeis unforgettably called "other people's money" that he controlled. By 1911, according to some estimates, Morgan controlled 40 percent of the capital raised in America.

How did Morgan and his fellow oligarchs leverage themselves into this kind of power? Brandeis accused investment bankers of using other people's money to take control of large companies which they then used to promote their own interests rather than the public interest. *Other People's Money* begins by warning about the dangers of merging the functions of the commercial banker and the investment banker. The original—and proper—function of the investment banker, Brandeis says, was that of a dealer in stocks and bonds. People needed to invest their savings; investment bankers would advise them about which securities were the soundest investments. But then investment bankers such as J.P. Morgan began to form and to control massive trusts—such as the railroad trusts—that manufactured and promoted stocks and bonds and then sold them back to J. P. Morgan & Co. itself with money borrowed from the many commercial banks that Morgan also controlled. "Can there be real bargaining," Brandeis asked, "where the same man is on both sides of a trade?" The key to the investment bankers' power, Brandeis wrote, was not ability or wealth but oligarchical consolidation, which allowed them to become the directors of huge combinations of railroads, insurance companies, banks, and trust companies, all of whom relied on them for funds. "The makers of our Constitution had in mind like dangers to our political liberty when they provided so carefully for the separation of powers," Brandeis wrote, astutely warning of the risks of oligarchy in the political and corporate sphere.

Rather than putting his own capital at risk, Brandeis wrote, "it is the investment banker's access to other people's money in controlled banks and trust companies" that allowed bankers such as Morgan to dominate and control credit for the entire country. The investment bankers "tak[e] the golden eggs laid by somebody else's goose" and bind the people in fetters "forged from the people's own gold." (Brandeis's gift for the memorable aphorism is one of the many sources of his rhetorical power.) The assets of Morgan and his associates swelled exponentially because they had achieved "the supposedly impossible feat of having their cake and eating it too," buying the bonds and stocks of railroads they controlled and, instead of parting with the purchase price, retaining it in their own coffers as bankers to the controlled corporations. They further accumulated wealth and power by paying themselves huge and unreasonable underwriting commissions for their self-dealing services. (These anticipated the scandal over bonuses during the current crash.) And "the invasion of the investment banker into the banks' field of operation was followed by a counter invasion by the banks into the realm of the investment banker," as commercial banks realized that they could make much more through risky investments with other people's money than by their traditional function of making temporary loans to small businesses.

Brandeis's attack on the House of Morgan has been criticized for its economic naïveté. Urofsky notes that Brandeis, with his romantic vision of Massachusetts railroads financed by Massachusetts banks and controlled by Massachusetts directors, "seemed oblivious to the economic realities that led many people to support consolidation" of the railroads at a time when it no longer made sense to have multiple lines with parallel tracks in local markets. The business historian Thomas McGraw has argued more generally that Brandeis's ideological opposition to bigness in all of its forms led him to ignore the distinction between large "center firms," such as Standard Oil, and smaller peripheral firms such as the family merchants, the Hechts and the Filenes, that he represented as a lawyer in Boston. Brandeis was concerned about loose horizontal combinations of both peripheral and center firms, in which producers of the same item could agree to limit production or keep prices high, harming efficiency and consumers in the process. But he failed to recognize the way vertical integration—the collection of different business functions under a single large roof—could bring economies of scale for the most successful center firms, bringing down prices and ultimately helping consumers.

Brandeis's critics are surely right that his romantic attachment to maximizing the numbers of small wholesalers and retailers led him, first as an advocate and then as a Supreme Court justice, to support policies, such as fixing retail prices at uniform levels, that ultimately harmed consumers. (The least modern—though perhaps most prescient—aspect of Brandeis's thought was his contempt for the consumer, whom he viewed as "servile, self-indulgent, indolent, ignorant," and easily manipulated by advertising—the very opposite of the engaged citizen.) But these criticisms miss the fact that for Brandeis, the real "curse of bigness" was ultimately not economic inefficiency but greed, recklessness, and oligarchy.

Brandeis shows how the growth of America's most productive industries—from railroads to steamships to telegraphs, cars, and electricity—was originally financed by risk-taking investors (we would call them venture capitalists) rather than investment bankers. (This pattern would be repeated during the high-tech revolution.) And once the investment bankers took control of industries, Brandeis argued, they threatened to run them into the ground through "financial recklessness," endangering the smaller investors whose assets they were supposed to protect.

The recklessness of investment banker-managers took the form of fraudulent accounting practices and a huge increase in short-term borrowing to buy stock in other companies, all in an effort to boost stock prices. This indebtedness, Brandeis charged, represented an "extraordinary lack of financial prudence": when money became tight and the loans had to be repaid, the companies were forced to sell at depressed prices that left no money for dividends. In Brandeis's view, the failure of banker management was not accidental but structural: "It was the natural result of confusing the functions of banker and businessman."

Brandeis proposed a series of remedies for these evils. He believed that disclosure of the excessive underwriting fees, commissions, and profits of the investment banks would

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lead to public protests against them. "Publicity is justly commended as a remedy for social and industrial diseases," he famously wrote. "Sunlight is said to be the best of disinfectants; electric light the most efficient policeman." He supported two of the reforms that gained public support after the findings of the Pujo Committee: the Clayton Antitrust Act of 1914 and the Sixteenth Amendment, ratified in 1913, which allows Congress to levy an unapportioned tax on income from property, such as interest, dividend, and rent income.

As an adviser to Woodrow Wilson, Brandeis helped to broker the compromise that led to the adoption of the Federal Reserve Act of 1913. The banking industry was stung by the panic of 1907, in which J. P. Morgan had single-handedly mobilized the capital that bailed out the American financial system. Led by Senator Nelson Aldrich, the son-in-law of John D. Rockefeller Sr., the bankers supported the creation of a strong central bank, controlled by the bankers themselves, that would bail out the financial system with taxpayer money in the event of future crashes while minimizing government regulation and oversight that might prevent the banks from gambling with other people's money in the first place. But this alternative became politically infeasible after the Pujo Committee and Brandeis seemed to suggest that a secret cabal of big banks was running the country for its own benefit. Instead, the compromise brokered by Brandeis and others created the Federal Reserve as a decentralized coalition of not more than twenty private banks that could bail out the banking system by issuing short-term loans and lowering interest rates. The federal government would control the central bank through a Federal Reserve Board appointed by the president; but the Federal Reserve banks would remain technically private and would have the power to appoint two-thirds of their directors.

The decentralized Fed was a distinctively Brandeisian solution to the challenge of financial regulation: he feared the curse of bigness in government as well as business, and opposed a government-owned banking system supported by Democratic populists such as William Jennings Bryan as well as the Wall Street proposal that would have allowed private banks to issue currency. The Federal Reserve Act of 1913, one of the most important pieces of legislation in American history, "struck a balance between private power and control on the one hand and public supervision on the other," Urofsky writes, "a balance that both Brandeis and Wilson cared greatly about."

Yet light federal regulation in the 1920s, combined with the cheap money made possible by the Fed's refusal to raise interest rates, created a speculative frenzy that culminated in the crash of '29. As Norman Hapgood wrote in the preface to the 1933 edition of Brandeis's book, "the fatalities following 1929 came to a large extent from the failure to act on the principles sharply drawn in *Other People's Money*." The creation of the Fed unleashed billions of dollars in credit, and devices such as the "broker's loan" allowed banks to engage in increasingly risky practices, such as lending investors funds to buy inflated stocks on margin—a dangerous practice because when stocks go down rather than up, borrowers have to repay, quickly wiping out the leveraged investors who had to sell everything at fire-sale prices. Brandeis, who considered the stock market a form of legalized gambling and invested his own money in conservative bonds, disapproved of new methods and instruments that allowed consumers to buy on credit, which he also viewed as dangerous speculation. "I wish to record my utter inability to understand why a lot of folks don't go broke," he observed in 1926, predicting "a breakdown within a year."

Taft and Brandeis, March 13, 1929

The regulatory response to the crash and the Great Depression that Brandeis predicted occurred in two phases. The first New Deal generally reflected Brandeis's ideas about the curse of bigness more than the second. Its capstone was the Banking Act of 1933, known as the Glass-Steagall Act, which separated commercial banks and investment banks by prohibiting commercial banks from selling stocks. In exchange for strict regulation, commercial banks would be protected from failure with federally insured deposits. (The regulation of investment banks, overseen by the Securities and Exchange Commission, focused on the Brandeisian goals of disclosure and preventing fraud—the goal was to protect investors rather than the bankers themselves.) The separation of commercial banking from investment banking forced Morgan to divest its investment-banking operations into Morgan Stanley. The House of Morgan, according to Urofsky, blamed its troubles on Brandeis and was convinced that the 1933 reissue of *Other People's Money* had been responsible for Glass-Steagall.

For Brandeis, the separation of commercial banking and investment banking was not an adequate response to the curse of bigness. He also wanted to ban interlocking directorates and eliminate most holding companies, and he felt that the Roosevelt administration's response to corporate size—antitrust prosecutions under the Sherman Act—was tepid and inadequate. But his most radical response to the Great Depression, outlined in letters to Felix Frankfurter in 1933, was a massive public-works program to put people to work on projects ranging from irrigation and slum clearance to adult education. The program was to be financed initially by loans and then "by high estate & income taxes with share to the States." More broadly, Brandeis wrote to Frederick Howe that he would limit corporate size by levying "an annual excise tax rapidly progressing in the rate as the total capitalization of the Corporation rises." He also proposed sharp increases on income taxes for corporations and rich individuals; a steep federal inheritance tax; unemployment insurance; and breaking up the banking system into commercial, savings, and investment units.

The financial reforms of the 1930s that Brandeis inspired—particularly the Glass-Steagall Act—helped to insure financial stability for the

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next half-century, which was marked by the lowest bank-failure rate in America's history. But in the 1990s those regulations were dismantled, owing to the cozy relationship between Wall Street and Washington that confirmed Brandeis's fears about the political power of "our financial oligarchy." The Gramm-Leach-Bliley Act of 1999 delivered the coup de grâce to Glass-Steagall. Removing what was left of the wall between commercial banking and investment banking, it allowed both kinds of banks to consolidate with each other and with insurance companies, and to own subsidiaries that engaged in either commercial or investment banking. In a gesture that would have appalled—but not surprised—Brandeis, officials from Citigroup reviewed the legislation in advance, and Clinton's treasury secretary, Robert Rubin, brokered the deal leading to the passage of the law while he was in secret negotiations to head Citigroup.

The repeal of Glass-Steagall, which freed commercial banks such as Citibank to compete as investment bankers, allowed the concentration of financial assets in a way that surpassed even the concentrations that galvanized Brandeis during the Progressive era: as a result of the repeal, the largest twenty financial institutions in the United States went from controlling 35 percent of America's financial assets to 70 percent, and the six largest banks—Morgan Stanley, JPMorgan Chase, Citigroup, Bank of America, Goldman Sachs, and Wells Fargo—came to own assets equivalent to 60 percent of the gross national product, up from less than 20 percent in the 1990s.

The power of our modern financial oligarchy expanded during the last days of the Clinton administration, with the enactment of the benignly named Commodity Futures Modernization Act, which removed the ability of the federal government to regulate derivatives, or complicated bundles of subprime mortgages and other financial instruments whose value derives from their expected future price rather than their actual value, which may be only dimly understood. The result was an explosion of the complicated and highly risky financial instruments that Brandeis most feared—such as credit default swaps, which allowed the banks to insure their debt obligations against default and write off the tremendous associated risks that complicit bond rating agencies had allowed them to minimize. Fiercely competing with investment banks for customers after the repeal of Glass-Steagall, the commercial banks were rapaciously buying up credit default swaps to loosen their capital in search of higher yields. (As Brandeis predicted, they were more concerned about bonuses and short-term profits than the long-term risks to their shareholders and to the economy.) The deregulation of derivatives allowed companies like the insurance giant AIG to sell investment banks billions of dollars in credit swaps without having any assets to back them up. Moreover, investors did not need to understand the risks associated with the underlying asset to purchase a credit swap; through AIG, investors could take bets on whether mortgagers and other debtors would default on their loans, creating a trillion-dollar market in unregulated gambling.

Although the crash of 2008 occurred in an economy vastly more complex than the crashes of 1907 and 1929, it vindicated all of Brandeis's fears. Like their predecessors a hundred years ago, the huge investment banks of today made their money by capturing brokers' fees based on the volume of trades they placed, rather than on the underlying soundness of the investments. The brokers had no interest in whether the subprime mortgages they were bundling and reselling for profit were in fact sound, since their soundness had been (falsely) certified by greedy ratings companies. (Brandeis on the element of time: "How can the leading bankers, necessarily engrossed in the problems of their own vast private business, get time to know and to correlate the facts concerning so many other complex businesses?") They maximized their profits by borrowing as much of "other people's money" as possible (evading or diluting capital requirements) and leveraging themselves into recklessly risky positions.

The modern version of the legalized gambling that Brandeis abhorred was the ability of the mega-banks to use their domination of the market to engage in proprietary trading—that is, to place risky and volatile bets for their own accounts, rather than earning commissions by trading for their customers' accounts. Proprietary trading desks, which often risk the most money for firms such as Goldman Sachs and are responsible for the biggest profits and losses, are the equivalent of internal hedge funds. When the bets went bad in 2008, the biggest investment banks were rescued by the then-unspoken guarantee that the government would step in if necessary to prevent a catastrophic failure of the system, as it had done in 1984 and 1998. That expectation did not save Lehman Brothers—or Barings Bank, which was brought down years ago by a trader who placed proprietary bets. But since then, the idea that certain banks are "too big to fail" has virtually become government policy. As a result, the mega-banks can take on even more risks than their competitors—including billions of dollars in side bets on their own failure—since everyone knows the government will clean up after them.

The idea of "too big to fail" is the perverse culmination of Brandeis's dystopian view of high finance. His main concern was not, as his critics suggest, the economic inefficiency of large firms, but the oligarchic influence they wielded over the American financial and political system, which allowed them to shield themselves from accountability for their own greed and recklessness. In an irony that Brandeis would not have relished, the smaller banks that resisted the risky proprietary trading of the mega-banks were allowed to fail, while the biggest banks that caused the crisis by flooding the market with junk securities were rescued.

What about regulatory responses to the crash of 2008? Paul Krugman has argued that the reformers fall into two camps—those who are concerned about the size of banks and those who want more effective regulation. Since everyone wants more effective regulation, a better dichotomy might be between the Jeffersonian-Brandeisians, who want to break up the big banks and prevent them from engaging in risky behavior, and the Hamiltonian neo–New Dealers, who prefer top-down government regulation. The Brandeisians are led by Paul Volcker, the former chairman of the Federal Reserve, who argues, like Brandeis, that the mega-banks should be broken up into smaller units that are not too big to fail. Brandeis's suggestion was to tax size: he argued that every business unit above a certain size should be forced to pay a tax large enough to be a burden for an inefficient mammoth but not for an efficient one. Although some economists today have supported a tax on size, the modern version of Brandeis's proposal to break up big banks came from a Senate bill proposed by Senator Kaufman of Delaware and Senator Brown of Ohio that would have capped the size of the mega-banks. The bill would have limited the liabilities of any single bank to 2 percent of GDP, and would have limited the total amount of insured deposits any bank could hold to 10 percent. But the attempt to break up the banks was opposed by the Hamiltonians in the Obama administration, Lawrence Summers and Timothy Geithner, and it failed in the Senate by a vote of 61-33.

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In addition to proposing to limit the size of banks, the Brandeisians today had another proposal to limit risky gambles by mega-banks. Dubbed by President Obama the "Volcker Rule," it would have banned the banks from engaging in proprietary trading for their own accounts. When Senator Levin and Senator Merkley proposed a relatively strict version of the Volcker Rule that would have shut down proprietary trading by the mega-banks, Republicans prevented a vote.

The financial reform passed by the Senate, the most sweeping overhaul of the financial system since the Great Depression, unfortunately represents a triumph of the neo–New Dealers over the Brandeisians. It seeks to end the "too big to fail" phenomenon by creating a new "Financial Stability Regulatory Council" to identify "systemic risks," in the hope of preventing companies from becoming too big to fail, as well as empowering the Federal Reserve to supervise the largest and most complex mega-banks to help them understand systemic risks. The bill also empowers the federal government, in extreme cases, to liquidate troubled companies by seizing them, firing their management, and funding their operations until they can be broken up and sold off. It would also regulate the trading of derivatives and empower the Securities and Exchange Commission to regulate hedge funds.

Brandeis would have supported the transparency requirements in the new financial regulations, which require complex derivatives to be traded through third parties instead of between customers and banks. But he would have objected that neither transparency nor allowing federal regulators to close down troubled banks addresses the central problem that he identified in *Other People's Money*: once the banks start to trade instruments that are too complicated for buyers and sellers to investigate and to understand, banker management is doomed to fail according to "the fundamental law of human limitations." And if bankers cannot understand the risks posed by complicated derivatives, federal regulators, who suffer from the same human limitations, are not likely to do much better.

Brandeis also understood the problem that we now call regulatory capture—namely, the likelihood that federal officials who are given broad discretion to regulate the financial industry will be successfully defanged by the lobbying power of our financial oligarchy. All of which is to say that the conflicts of interest and oligarchical behavior that Brandeis warned about will persist as long as the banks continue to engage in risky behavior to inflate their short-term stock prices at the expense of long-term productive investments. For these reasons, I have no doubt Brandeis would have insisted that without limiting the size and proprietary trades of the banks, the risky behavior will continue, leading to future crashes.

For Brandeis, the main objection to large corporate centers of private power was not primarily economic, it was moral. In his view, the curse of bigness was a threat not only to efficiency, but also to political liberty and democracy. In the wake of the crash of 2008, Brandeis's insistence that businesses meet moral standards as well as economic ones seems more urgent than ever.

III.

Brandeis's reputation could rest alone on his analysis of corporate bigness, and on its premonitory brilliance. And this he accomplished before he joined the Supreme Court. On the bench, further distinction followed. He became the most far-seeing progressive justice of the twentieth century, the one whose judicial philosophy is most relevant for the Court today as it confronts questions involving regulation in a time of economic crisis and the preservation of constitutional liberty in a time of technological change. The judicial philosophy of Justice Brandeis rested on three pillars: a commitment to judicial restraint, rooted in deference to legislative experimentation and states' rights; a crusading opposition to the effects of large corporations on American democracy; and a determination to translate the values of the constitutional Framers into concepts and rulings that were required in an era of social and technological change, to interpret the document not just in light of its original understanding but also as a synthesis of the progressive history of the United States.

The populist crusade against big business gained steam in the 1890s, and by the turn of the century a coalition of industrial workers, urban social reformers, small businesses, and farmers began to lobby state legislatures to pass laws to curb the corporate excesses of an industrial age. In the first decade of the twentieth century, state legislatures responded by enacting antitrust laws, maximum-hour and minimum-wage laws, and workmen's compensation laws. This amounted to a kind of social revolution, one of the greatest bursts of decency in American history. But the American judiciary in those momentous years cast itself as a pro-business conservative force, defending property rights and corporate interests against progressive regulation. As a result, "Progressivism," as Learned Hand put it, "reflects a suspicion of courts."

Brandeis was a product of the Progressive movement, and one of its shining lights. On the Supreme Court, he was part of the progressive tradition that advocated judicial restraint, although he never went so far as embracing the most radical progressive proposals to limit the courts, such as the popular recall of judicial decisions. Instead Brandeis insisted that judges should hesitate to strike down state and federal laws unless they clearly and uncontroversially violated explicit constitutional rights and limitations, and he insisted that decisions should be written as narrowly as possible to avoid broad constitutional rulings. "The most important thing we do is not doing," Brandeis once remarked to Felix Frankfurter. In 1936, in *Ashwander* v. *Tennessee Valley Authority*, Brandeis articulated the doctrine of constitutional avoidance that Chief Justice John Roberts ostensibly embraced but has inconsistently applied—namely, that because of the limitations of human reason, judges were more likely to achieve consensus on narrow technical questions involving procedure and jurisdiction rather than on broad constitutional questions involving a clash of values, and therefore the Court should not "formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied."

Brandeis was the leader of a tradition that no longer exists on the Supreme Court—a progressive championing of states' rights and federalism. (He was the first to characterize the states as "laboratories of democracy," a phrase that has become the touchstone of conservative defenders of federalism today.) The states fulfilled his Jeffersonian belief that small-scale democracy was most likely to satisfy human needs; and in his day the states were indeed more inclined to champion progressive values than the conservative courts. Brandeis generally voted to uphold federal laws as well as state laws; and although he was personally alarmed by the growing centralization of the federal government under Franklin D. Roosevelt, he voted to uphold most of the New Deal.

But he was willing to join some of the opinions striking down New Deal legislation, because in his view it threatened democratic accountability by transgressing clear constitutional limits on the delegation of executive power. The Roosevelt administration never adopted the kind of confiscatory taxation that

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Brandeis thought was necessary to limit corporate size. Instead, the New Deal included aggressive assertions of executive and congressional power that, in Brandeis's view, transferred the curse of bigness from business to the federal government. "The doctrine of the separation of powers was adopted by the Convention of 1787 not to promote efficiency, but to preclude the exercise of arbitrary power," he wrote in 1926 in his dissent in *Myers* v. *United States*, a case holding that Congress could not limit the president's unitary authority to fire executive branch officials he appointed. And in a series of cases in 1935, Brandeis joined unanimous opinions striking down elements of the first New Deal that he felt raised the specter of autocracy by creating unchecked, centralized federal power.

Brandeis especially disliked the National Industrial Recovery Act (NIRA), which suspended antitrust laws and allowed all the firms in an industry to write legally enforceable codes of fair conduct. In 1935, Brandeis joined an 8-1 opinion striking down the act's "hot oil" clause, which permitted the president to ban interstate shipments of oil that exceeded state production limits. In the view of Brandeis and his colleagues, Congress had delegated lawmaking power to the president without providing sufficient guidelines to constrain executive discretion. (The same argument would be raised decades later against President Bush's and President Obama's Troubled Asset Relief Program). And on May 27, 1935—known as Black Monday—the Court handed down three opinions questioning the extent of federal power to fight the Depression. Brandeis wrote or joined these opinions—in fact, all three were unanimous. Convinced that "our Court did much good for the country," Brandeis asked a friend to deliver a message to Felix Frankfurter and the advisers he had brought into government. "You must see that Felix understands the situation and explains it to the president," Brandeis said. "They must understand that these three decisions change everything. The president has been living in a fool's paradise."

It is striking to contrast the unanimous opinions Brandeis joined questioning some of the excesses of the New Deal with the ideologically divided decisions of the pro-business justices on the Roberts Court who are beginning to question certain aspects of the economic and regulatory reforms that followed the crash of 2008. Brandeis mistrusted big business and a big federal government; but the pro-business conservatives on the Roberts Court embrace bigness in both arenas. Justice Scalia, for example, has questioned the constitutionality of independent agencies that Brandeis helped to establish and voted to uphold, such as the FTC, and suggested that he would overturn the unanimous 1935 *Humphrey's Executor* case, which Brandeis joined, because of his devotion to unchecked (or "unitary") executive power. Scalia and the other conservative justices have also consistently ruled in favor of big business defendants in antitrust cases and have broadly construed federal regulations to "pre-empt" pro-consumer state regulations and jury verdicts to the contrary. The pro-states' rights and pro-antitrust Brandeis would have reached the opposite conclusion.

Broadly speaking, the liberal and conservative justices on the Roberts Court harbor a suspicion of "regulation by litigation" that Brandeis, the people's lawyer, did not share. There is no economic populist on the Roberts Court who expresses Brandeis's suspicion of bigness in both corporations and government. When Brandeis voted against aspects of the New Deal, he did so not because he believed in an unregulated market, as modern conservatives and Tea Party activists do, but because he believed that corporations should be broken up by taxation so they were small enough to be effectively regulated by the states.

There is another crucial difference between Brandeis's vision of judicial restraint and that of his contemporaries and successors. He fervently believed in the economic justice of the legislation he voted to uphold. This distinguished him from Holmes, for example, who was even more rigidly committed to judicial deference, because of his radical skepticism about the ability of judges or legislators to discern the truth, and who also had contempt for democracy and for the Progressive legislation that he voted to uphold. "I am so skeptical as to our knowledge about the goodness or badness of laws that I have no practical criticism except what the crowd wants," Holmes wrote to Sir Frederick Pollock in 1910, having told his sister nearly fifty years earlier that he "loathe[d] the thick-fingered clowns we call the people." Brandeis, by contrast, never condescended to the people or to democracy: he was idealistic about the possibility of citizens engaging in serious deliberation in communities, so as to pass laws that would meet human needs and promote social justice. For this reason, Brandeis never professed agnosticism about the economic regulations he criticized his colleagues for striking down. Quite the contrary. Many of his dissents include a passionate defense of why legislators properly viewed those laws as reasonable and necessary.

These two strains of Brandeis's judicial philosophy—his judicial restraint and his crusading anti-corporate Progressivism—are on display in one of his most memorable (and quixotic) dissenting opinions, in *Liggett* v. *Lee*, a case striking down an anti-chain-store-law in Florida that aimed to protect small, independently owned businesses from competing with out-of-state chain stores by taxing the chain stores with a discriminatory license fee. Brandeis read his dissent from the bench on March 13, 1933, just days after the newly inaugurated President Roosevelt declared a bank holiday to quell the financial panic. Brandeis fervently defended what he saw as the social and historical realities that justified the Florida legislature's protectionist action, and the economic reality of the Depression suffuses his entire dissent. "There is a widespread belief," Brandeis wrote,

> that the existing unemployment is the result, in large part, of the gross inequality in the distribution of wealth and income which giant corporations have fostered; that by the control which the few have exerted through giant corporations, individual initiative and effort are being paralyzed, creative power impaired and human happiness lessened; that the true prosperity of our past came not from big business, but through the courage, the energy and the resourcefulness of small men; that only by releasing from corporate control the faculties of the unknown many, only by reopening to them the opportunities for leadership, can confidence in our future be restored and the existing misery be overcome; and that only through participation by the many in the responsibilities and determinations of business, can Americans secure the moral and intellectual development which is essential to the maintenance of liberty.

This passage was characteristic of Brandeis's greatest opinions, which begin with close technical analysis and end with passionate generalizations about the political and economic beliefs of the American people. In his judicial writing Brandeis could achieve a kind of constitutional poetry.

Brandeis was outraged that the Supreme Court had prevented states such

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as Florida from trying to protect local businesses from out-of-state rivals. In his view, the decision failed to defer to the superior fact-finding abilities of the legislature and offended principles of federalism and judicial restraint. But in addition to these abstract concerns, Brandeis made an affirmative case for the protectionist law as a principled response to the curse of bigness and as a way of translating time-honored American values into the twentieth century. Brandeis had long been looking for a case that allowed him to set out his views on the dangers of big corporations and *Liggett* was the one. It offered him an ideal chance to explain the ideas at the center of his economic thought, including his affinity for democratically accountable small businesses with clear ties to the community; his distrust of large business combinations, in which ownership and control were separated and managerial decisions were made far away from the actual economic activity they affected; and his broad view of government's ability to use its tax and regulatory power to make corporations accountable to the general welfare.

Despite his professed devotion to facts, Brandeis was ultimately more interested in using his opinions to articulate and defend basic American ideals. But many observers joined the *Liggett* majority in viewing the Florida statute in the prosaic terms of economic protectionism. Brandeis's former law clerk Henry Friendly was in Tallahassee at the time the anti-chain-store statute had been adopted, and observed the Florida legislature's deliberations as the drugstore industry lobbied for the anti-chain-store law. "I was down watching the Florida legislature," Friendly told Brandeis, "and I don't think they had any of those social benefits in mind that you discussed. I think they were just influenced by the drug lobby." According to Friendly, Brandeis did not smile or respond, he simply changed the subject. Another former clerk, David Riesman, told me years ago that Brandeis, although famous for his devotion to facts, never let them interfere with his single-minded devotion to his states'-rights ideals.

IV.

In addition to combining judicial restraint with passionate anti-corporate progressivism, Brandeis's *Liggett* dissent exemplified a third aspect of his judicial philosophy: his commitment to interpreting the ideals of the Founders in light of the entire range of constitutional history. In this sense, Brandeis provides an inspiring model for citizens today who are searching for an alternative to the rigid originalism championed by some Roberts Court conservatives, and also for an alternative to the untethered "living constitutionalism" of some Warren Court liberals. Brandeis combines elements of originalism and living constitutionalism into an approach that might be called living originalism.

Brandeis believed that the values of the Founders were immutable, but had to be translated into a very different world in light of dramatic changes in society, technology, and economics. He believed in constitutional change—in a talk called "The Living Law," he charged that the law had "not kept pace with the rapid development of our political, economic, and social ideals" and said "the challenge of legal justice [was] to conform to our contemporary conceptions of social justice." But Brandeis insisted that efforts to render constitutional values in a contemporary vocabulary always had to be rooted in the text and in the broad unchanging ideals of the Framers. By interpreting the values of the Framers in light of progressive movements across the range of American history, Brandeis believed they could be preserved in a way that served the needs of citizens in the here and now—which is, after all, what the Constitution was written to do.

Consider Brandeis's most memorable attempt to adapt constitutional values to changes in technology. As early as 1928, in *Olmstead* v. *United States*, the Supreme Court encountered the problem of the constitutionality of electronic searches. When the federal government began to tap phones in an effort to enforce Prohibition, a bootlegger named Olmstead protested that the wiretaps violated the Fourth Amendment, which protects the right of the people to be secure in their "persons, houses, papers, and effects." In a literal-minded majority opinion, Chief Justice William Howard Taft disagreed. The Fourth Amendment, he said, was originally understood to forbid only searches or seizures accompanied by physical trespass. The agents had not trespassed on Olmstead's property when they placed wiretaps on the phone lines in the streets near his house, Taft held, and conversations were not tangible "effects" that could be searched or seized.

Brandeis was acutely interested in the question of technological espionage. Urofsky reports that he asked Herbert Croly to investigate examples of employers hiring spies to get information about workers who were union activists, and he wanted Felix Frankfurter to assign a student to investigate the Founders' views about secret political operatives. In his visionary dissenting opinion in *Olmstead*, Brandeis grappled with the challenge of applying the Founders' views about privacy to modernity. As private life had begun to be conducted over the wires in the age of radio, he observed, telephone conversations contained even more intimate information than sealed letters, which the Supreme Court in the nineteenth century had held could not be opened without a warrant. To protect the same amount of privacy that the Framers of the Fourth and Fifth Amendments intended to protect, Brandeis concluded, it had become necessary to extend those amendments to prohibit warrantless searches and seizures of conversations over the wires, even if the invasions occurred without physical invasions. It took the Supreme Court—and Congress—decades to answer Brandeis's challenge.

At the time of the Framing, Brandeis noted, the government had to break into homes to seize private papers, but changes in technology had now made it possible to invade privacy without trespassing on private property. (At this point, Urofsky reports, Brandeis wanted to cite a new device called television, recently developed by General Electric, but a skeptical law clerk—Henry Friendly, again—persuaded him to remove the reference.) In a remarkably prescient passage, Brandeis looked forward to the age of cyberspace, predicting that technologies of surveillance were likely to progress far beyond wiretapping. "Ways may some day be developed," he observed, "by which the Government, without removing papers from secret drawers, can reproduce them in court, and by which it will be enabled to expose to a jury the most intimate occurrences of the home." Unless a way could be found for the Constitution to address the new technologies, less privacy and freedom would be protected in the twentieth century (and the twenty-first) than the Framers of the Constitution expected of the eighteenth century.

How would Brandeis approach the transformation of privacy in the modern age by new technologies such as cloud computing? Now that our "papers and effects" are stored not in desk drawers, but in "the cloud"—that is, on distributed servers, owned by Google or Yahoo, that can be accessed virtually with Web browsers—should the government be able to seize the data at will? The current Supreme Court has said yes, in many circumstances, because of two implausible doctrines that have prevented

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the Fourth Amendment from keeping pace with changes of technology. First, the Court has held that if you surrender data to a third party, even for a limited purpose, it generally loses all Fourth Amendment protections. This means that if you turn your private papers over to Google, Google can be compelled to turn them over to the government. Second, the Court has held that the only expectations of privacy that are entitled to constitutional protections are those that society reasonably expects. The circularity of this reasoning is obvious: as people expect greater invasions of privacy, their constitutional protections are correspondingly diminished.

Brandeis would never have tolerated these arid and unpragmatic abstractions, which have the effect of giving citizens less privacy in the age of cloud computing than they had during the Founding era. In applying the Constitution to the perplexities of our time, he might have looked to the states as laboratories of democracy: according to an ACLU study, eleven states have rejected the "third party" doctrine, which says that surrender of data for one purpose eliminates constitutional protection for all purposes, and nine more states have indicated that they might reject it in the future. Or Brandeis might hold, with some states, that government intrusions must be no greater than necessary, encouraging judges to balance the intrusiveness and effectiveness of the search against the seriousness of the crime. Or he might attempt to define how much privacy citizens in a free society should be entitled to expect, regardless of society's expectations. Or he might look to European democracies, some of which adopt a proportionality principle that balances the justification for the search against its impact on the affected party. What's clear is that Brandeis would have considered it a duty to actively engage in the project of constitutional translation in order to preserve the Framers' values in a startlingly different technological world.

In the age of the Internet, then, Brandeis is the most relevant figure, the prophet not only of privacy but also of free speech. His concurring opinion in *Whitney* v. *California* in 1927 is the most far-seeing essay on the purposes and the boundaries of free speech in American history—more so than the free speech opinions of Holmes, which are quoted more often but are less substantively appealing. Brandeis's opinion in *Whitney* completed the evolution that he and Holmes began in March 1919, when Holmes wrote opinions for the Court upholding the convictions under the Espionage Act of socialists who criticized World War I. In 1919, in *Abrams* v. *United States*, Holmes wrote a dissent, joined by Brandeis, that represents his best vision of the First Amendment. "The ultimate good desired is better reached by free trade in ideas," Holmes declared. "The best test of truth is the power of the thought to get itself accepted in the competition of the market."

Holmes's libertarian defense of free speech as the currency of the marketplace of ideas was consistent with his nihilistic vision of American democracy, which he developed out of his experience in the Civil War. Holmes believed that majorities had to be given virtually unlimited power to crush minorities through law, or else their disagreements would break out into actual violence. But although Brandeis joined several of Holmes's dissents, he provided in *Whitney* a much more idealistic and positive vision for the protection of free expression by the courts. Brandeis stipulated that speech could be restricted only if it threatened harms that were both imminent and serious and if there was no time for deliberation to defuse the danger—conditions that the Court would embrace more than forty years later.

Brandeis's faith in deliberation was based on his conviction that if people were given time and opportunity to engage in "public discussion"—which is "a political duty"—then "the power of reason" would prevail. In his concurrence, Brandeis argues that free speech is necessary both for "the discovery and spread of political truth" and for men to "develop their faculties." But his justifications for free speech are not limited to self-rule and self-fulfillment. He goes on to argue that "the deliberative forces should prevail over the arbitrary," and also "that the greatest menace to freedom is an inert people." He is offering a defense of free speech rooted in the classical republicanism of the Greeks and Romans rather than in the liberalism of the nineteenth century.

Expanding upon the arguments of the scholar Philippa Strum, Urofsky notes that Brandeis's peroration about the Framers' views of free speech—"they believed liberty to be the secret of happiness and courage to be the secret of liberty"—comes almost directly from Pericles's funeral oration. Strumm also noted that one of Brandeis's favorite books was Alfred Zimmern's *The Greek Commonwealth*, which he read in the winter of 1913. Zimmern, like Brandeis, viewed Periclean Athens as a model for modern democracies, and insisted that only active and serious political participation by citizens could safeguard democratic virtue. Rejecting Holmes's cynical view that majority will had to be accepted even when it was brutally misguided, Brandeis worried, with Madison and Mill, that governing majorities could become occasionally tyrannical. But he also had faith that a virtuous and engaged citizenry—grounded in small communities—could, through deliberation, achieve a good in common that it could not know alone.

Although Brandeis's doctrinal conclusions about the First Amendment were eventually embraced by the modern Supreme Court, his philosophical vision has met with strenuous resistance. The Court has repeatedly endorsed Holmes's metaphor of free trade in ideas, while rejecting Brandeis's competing notion that the core of the First Amendment is the positive liberty of citizens to engage in public deliberation rather than the negative liberty of citizens to be free from any governmental restrictions on speech. "The concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment," the Court wrote with a Holmesian flourish in 1976.

Brandeis would certainly have deplored the Court's recent decision in *Citizens United* v. *FEC*, in which it struck down restrictions on corporate campaign spending: as he wrote in his *Liggett* dissent (which was cited by Justice Stevens and the other dissenters in *Citizens United*), legislatures throughout the nineteenth and early twentieth centuries imposed a host of regulations to ensure that the corporate form did not threaten the autonomy and deliberative powers of citizens. Campaign finance regulations on corporations implicate three of Brandeis's greatest concerns—the peril of corporate bigness, the importance of public deliberation, and the imperative of judicial restraint.

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And what would Brandeis have made of the coming threats to free speech and privacy in the age of the Internet? He would have recognized, surely, that the lawyers at Google and Facebook have more influence over who can speak, and who can be heard, and who can escape his past, than the justices of the Supreme Court, and he would have been concerned about the ways in which concentrated corporate power may threaten public deliberation rather than encourage it. He would have appreciated that the most important recent development in free speech has been not the libertarian chest-beating of the Supreme Court, but the Federal Communications Commission's endorsement of "net neutrality"—namely, the rule that Internet service providers must treat all content equally and cannot delay or block any applications. More generally, Brandeis would have encouraged the FCC and other regulatory bodies to explore the free speech implications of antitrust regulations as it considers proposed mergers such as the one between Comcast and NBC.

Above all, the Internet vindicates Brandeis's warnings about the complexities and the dangers of deliberation by engaged citizens in bounded, small-scale communities. On the one hand, citizens are finding—on Facebook, in blogs, and in comments sections across the Web—some kind of digital fulfillment of the Periclean commonwealth that Brandeis viewed as a model for the "political duty" of "public discussion." When freed from the need to submit their speech to censors and intermediaries—with very troubling exceptions in China, Iran, and other repressive states—citizens can deliberate, respond, and refine their views on matters of public interest in ways that approach Brandeis's ideal. On the other hand, the same Web communities are full of the idle gossip that Brandeis lamented in his famous article on the right to privacy—and on a scale that makes Brandeis's concerns about the invasions of social privacy by the Kodak camera and the instant press look quaint.

With nearly five hundred million users, Facebook and its forums are full not only of deliberation about public issues, but also of less elevating photos, chat, self-exposure, and speculations about the private lives of others that, in Brandeis's view, crowd the public sphere and leave less space or attention for matters of public concern. Brandeis would have worried also about the polarization of speech on the Internet into "communities of interest" that often amount to electronic mobs, relentlessly insisting upon more and more extreme versions of their positions, and more and more conformity to their extremism. This is not remotely what we mean by public reason. It is, in fact, the death of public reason.

The Constitution generally restricts the government, not corporations and other private actors, and Brandeis would not have assumed that the solutions to his fears about the corruption of deliberation by cyber-demagoguery, or the destruction of privacy by Facebook, were necessarily constitutional solutions. Surely he would have exhorted Congress, as well as the FCC and the FTC, to protect free speech and privacy from corporate threats in cases where the First and Fourth Amendments could not plausibly reach. And if judges, Congress, and the regulatory agencies refused to act, he would have turned his attention to state legislators and a mobilized citizenry.

I imagine he would have been nervously optimistic about the possibility of achieving reasoned deliberation in bounded communities on the Web; and he would have insisted that individual citizens—not government or judges—bore the ultimate responsibility for using social networking technologies to "develop their faculties" of public deliberation, rather than to play video games, gossip, rant, or amuse themselves to death. Brandeis developed an interesting and rather strenuous conception of the importance of leisure as a condition of personal and social fulfillment. Individuals had to decide between idle amusements and meaningful self-improvement, between wasting their time as consumers or elevating themselves into engaged citizens. "The worker must, in other words, have leisure," Brandeis wrote in a speech called "True Americanism." "But leisure does not imply idleness. It means the ability to work not less but more, ability to work at something beside breadwinning.... Leisure, so defined, is an essential element of successful democracy."

V.

Brandeis's convictions, his Jeffersonian ideals about democratic participation and small-scale self-government, eventually came to focus on a distant place where he dared to believe that they could be achieved. That place was Palestine. Raised as an unobservant and non-practicing Jew, Brandeis experienced a remarkable personal and intellectual transformation in his fifties. He became the head of the Zionist movement in America.

How did he become a Zionist? Although he never denied his Judaism, Brandeis had identified only marginally with Jews since his childhood in St. Louis. This changed in 1910. "Throughout long years which represent my own life, I have been to a great extent separated from the Jews," Brandeis declared in 1914 at an emergency meeting of the American Zionists at the Hotel Marseilles in New York, which he agreed to chair at the request of the young Zionist and cultural critic Horace Kallen (who was also one of the intellectual forces at this magazine). "I am very ignorant in things Jewish." But he went on to say that "recent experiences, public and professional, have taught me this: I find Jews possessed of those very qualities which we of the twentieth century seek to develop in our struggle for justice and democracy: a deep moral feeling which makes them capable of noble acts; a deep sense of the brotherhood of man; and a high intelligence, the fruit of three thousand years of civilization." All of these experiences convinced Brandeis that "the Jewish people should be preserved."

What were the "public and professional experiences" that transformed Brandeis's outlook from indifference about Judaism to crusading Zionism? He himself said he had come to Zionism through Americanism. Before 1910, he, like many upper-class American Jews of German and European heritage, was skeptical about Zionism because of his concerns about "dual loyalties" and his support for melting-pot assimilationism. In 1905, in a speech at the Century Club in New York, Brandeis echoed Theodore Roosevelt and Woodrow Wilson in warning about the dangers of separatism. "There is no place for what President Roosevelt has called hyphenated Americans," Brandeis declared. "Habits of living or of thought which tend to keep alive difference of origin or to classify men according to their religious beliefs are inconsistent with the American ideal of brotherhood, and are disloyal."

At the end of 1910, however, Brandeis was interviewed by Jacob de Haas, the editor of the *Jewish Advocate* in Boston, who asked he if was related to Lewis Dembitz. When Brandeis said yes—he had changed his middle name to Dembitz to honor his revered uncle—de Haas replied that "Dembitz was a noble Jew," because he had been one of the first American supporters of Theodor Herzl's plan to establish a Jewish homeland. That same year Brandeis served as a mediator in a factory strike by garment workers in New York City. Both the workers and the management involved in the strike were

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Russian Jews, and Brandeis later recalled how impressed he had been by the intellectualism and the idealism of the immigrant Jewish workers, an experience that gave him respect for their support for Zionism and their concerns about European anti-Semitism.

In addition to these two influences, Urofsky notes an intellectual one: Horace Kallen, the leading American theorist of cultural pluralism, who had met Brandeis while he was a Harvard undergraduate and in 1913 sent Brandeis a copy of an essay he had written on Zionism and Palestine. In his essay, called "Judaism, Hebraism, Zionism," Kallen introduced an idea that he would develop later: namely, that preserving a distinct Jewish identity in Palestine was the best way to preserve a unique Hebraic culture that could enrich both America and the world. Kallen discussed these ideas with Brandeis in 1914, on their way to the conference at the Hotel Marseilles. As Kallen later recalled the meeting, "The important thing for him was that the proclaimed antagonism between Americanism and Zionism was a false claim—it didn't have to be.... Because to begin with he believed that he could not be an American and a Zionist completely. Then he came to believe that he could, and that he would, and he did."

Kallen's mature reflections on Zionism were related to his groundbreaking ideas about cultural pluralism. Rejecting the assimilationist ideology of the melting pot, Kallen would write in *Cultural Pluralism* that members of immigrant groups could not, and should not, try to shed their unique cultures and values, since by retaining their individual hyphenated identities, they could better contribute to the diversity of the American whole. It was only by cultivating a variety of group identities that individuals could develop their own unique personalities.

The evolution of Brandeis's thinking about Zionism was swift and dramatic. In 1912, he joined the Federation of American Zionists, which had a modest membership of just over twelve thousand. With the outbreak of World War I in Europe, European Zionism was paralyzed due to its isolation. (The World Zionist Organization was headquartered in Berlin.) As a response to this need, a group of American Zionists called for an emergency meeting to be held at the Hotel Marseilles on August 30, 1914. Urged to chair the meeting by de Haas and Kallen, Brandeis agreed to do so, and then proceeded to assume the leadership of what would soon prove to be an enthused and reinvigorated American Zionist movement.

Brandeis offered his most comprehensive statement on Zionism in "The Jewish Problem—How to Solve It," a speech delivered in 1915 before the conference of the Eastern Council of Reformed Rabbis in New York. In the speech, he argued passionately that hyphenated group identity is important for the development not only of American ideals but also of individual self-fulfillment. "This right of de-

Qohelet
Translations from Ecclesiastes

Chapter One, 1-9

The words of Qohelet son of David, king in Jerusalem.

Merest breath, said Qohelet, merest breath. All is mere
breath.

What gain is there for man in all his toil that he toils under
the sun.

A generation goes and a generation comes, but the earth
endures forever.

The sun rises and the sun sets, and to its place it glides,
there it rises.

It goes to the south and swings round to the north, round and
round goes the wind, and on its rounds the wind returns.

All the rivers go to the sea, and the sea is not full.
To the place that the rivers go, there they return to go.

All things are weary. A man cannot speak. The eye is not
sated with seeing, nor the ear filled with hearing.

That which was is that which will be, and that which was done
is that which will be done, and there is nothing new
under the sun.

Chapter Twelve, 3-8

On the day that the guards of the house will quake
and the stalwart men be twisted,
and the maids who grind grow idle, for they are now few,
and those who look from the casements go dark.

And the double doors close in the market
as the sound of the mill sinks down,
and the sound of the bird arises,
and all the songstresses are bowed.

Of the very height they are afraid,
and terror is in the road.
And the almond blossoms,
and the locust tree is laden,
and the caper-fruit falls apart.
For man is going to his everlasting house,
and the mourners turn around in the market.

Until the silver cord is snapped,
and the golden bowl is smashed,
and the pitcher is broken against the well,
and the jug smashed at the pit.

And dust returns to the earth as it was,
and the life-breath returns to God Who gave it.

Merest breath, said Qohelet. All is mere breath.

—Translated by Robert Alter

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velopment on the part of the group is essential to the full enjoyment of rights by the individual," he declared. "For the individual is dependent for his development (and his happiness) in large part upon the development of the group of which he forms a part." All this was distinctly in the spirit of his *Whitney* concurrence. "We recognize," he continued, "that with each child the aim of education should be to develop his own individuality, not to make him an imitator, not to assimilate him to others. Shall we fail to recognize this truth when applied to whole peoples? And what people in the world has shown greater individuality than the Jews?" Of all the peoples in the world, said Brandeis, "the Greeks and the Jews" are "preeminent as contributors to our present civilization."

Brandeis's views about the Jewish return to Palestine as a fulfillment of the democratic ideals he admired in fifth-century Athens were shaped by his reading of Alfred Zimmern. As Philippa Strum has noted, the similarities between Brandeis's and Zimmern's vision of the possibility of democracy in Palestine and Greece are uncanny. Both the Zionists and the ancient Greeks shared views about the importance of decentralization, local self-government, and independence; efficient management as a cornerstone of democratic government; the need for justice and idealism in public affairs; material wealth as a means for social well-being and not as an end in itself; protecting human dignity in labor; and a belief that all problems have human solutions. Zimmern believed that geography was a central determinant of culture, and that Palestine's geography, like that of Athens, made it ripe for a democratic society. And Zimmern had juxtaposed Jewish sources—from the Pentateuch, the prophets, and Jewish history—alongside the Greeks, and suggested that classical civilizations of both cultures shared many of the same values. Brandeis viewed Palestine as a society that could transcend the social and political problems that he saw in America, including the especially detestable infatuation with bigness. Brandeis ultimately traveled to Palestine with Zimmern in 1919, and found in the kibbutzim of the *yishuv* a contemporary fulfillment of his Jeffersonian vision.

In Zionism, Brandeis found his own best answer to "the Jewish Problem." He wrote that "Zionism seeks to establish in Palestine, for such Jews as choose to go and remain there, and for their descendants, a legally secured home, where they may live together and lead a Jewish life, where they may expect ultimately to constitute a majority of the population, and may look forward to what we should call home rule." And he envisioned mutual benefits for Palestine and for America, as Zionism warded off assimilationist tendencies among American Jews who decided to support the Jewish homeland but not settle there, preserving the individuality of the American Jewish community. By "securing for those Jews who wish to settle there the opportunity to do so, not only those Jews, but all other Jews will be benefited, and … the long perplexing Jewish Problem will, at last, find solution."

Now convinced of the value of group differences for preserving American ideals, Brandeis reversed his previous bias against hyphenation:

> Let no American imagine that Zionism is inconsistent with patriotism. Multiple loyalties are objectionable only if they are inconsistent. A man is a better citizen of the United States for being also a loyal citizen of his state, and of his city; for being loyal to his family, and to his profession or trade; for being loyal to his college or his lodge. Every Irish American who contributed towards advancing home rule was a better man and a better American for the sacrifice he made. Every American Jew who aids in advancing the Jewish settlement in Palestine, though he feels that neither he nor his descendants will ever live there, will likewise be a better man and a better American for doing so.

Far from suffering from a clash of identities, "loyalty to America demands rather that each American Jew become a Zionist," he concluded memorably. He ended the speech with the prophetic Manichaeanism that led Franklin Roosevelt to call him "Isaiah": "Organize, organize, organize, until every Jew in America must stand up and be counted, counted with us, or prove himself, wittingly or unwittingly, of the few who are against their own people."

What is the pertinence to our own vexations of Brandeis's vision of Zionism and compound identity? In his idealization of small-scale democracy in Palestine as the culmination of the Jeffersonian shire and the Athenian polis, Brandeis was of course something of an idealist. The Jewish state did not develop in a communalist direction; it thrived economically as a bastion of democratic capitalism. It must also be noted that even though Brandeis supported "a legally secured home" for the Jews in Palestine, his Zionism was not so much about politics as about identity. His Zionism offers little guidance about wars and conflicts in the Middle East. Moreover, his identification of Zionism with Americanism was not, like the identification of *Deutschtum* with *Judentum*—of Germanness with Jewishness—by many German Jews of the time, an assertion of exclusiveness. Brandeis's Zionism was in fact a doctrine of inclusiveness, and welcoming of similar expressions of group loyalty by other groups: it was, in this sense, a distinctly American sort of Zionism. And those German Jews who conflated their Germanness with their Judaism were often anti-Zionist. They aspired to a universality that worried about difference, whereas Brandeis chose to celebrate difference. Just days after Hitler took office, Brandeis declared that "the Jews must leave Germany … and they will," because no self-respecting Jew could remain in the Third Reich. Alas, too many of them stayed where they were. *Deutschtum* turned out to be not at all like *Judentum*. Brandeis died in 1940, and so he never learned the worst.

American Jews today, of course, often disagree about the success of the Israeli government in achieving the ideals that Brandeis attributed to both Zionism and Americanism: namely, "the development of the individual for his own and the common good; the development of the individual through liberty, and the attainment of the common good through democracy and social justice." But whatever Israel's successes and failures, Brandeis's argument for the integrity of the Zionist commitment remains powerful. The claim of Israel upon the support of American Jewry is based not only upon their Jewish identity but also upon their American identity. This was not "dual loyalty," in Brandeis's view; it was based upon a single philosophy. "My approach to Zionism was through Americanism," he said. "In time, practical experience and observation convinced me that Jews were by reason of their traditions and their character peculiarly fitted for the attainment of American ideals. Gradually it became clear to me that to be good Americans, we must be better Jews, and to be better Jews, we must become Zionists." This may be a little too tidy; but nothing in it contradicts the great American dispensation of pluralism, or the belief in the blessings of diversity that goes back even further to the Founding era. In Brandeis's construction of Zionism, we are restored to one of the fundamental principles of modernity: the cultivation of the individual and the group, and the confidence that this cultivation is a universal good.

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Brandeis was an individualist *and* a communalist. His vision of cultural pluralism is more urgent than ever in a globalized age. It provides a balanced alternative to the separatist tendencies of multiculturalism, which exalts group identity without insisting on universal values, and to the homogenizing assimilationist pressures of the Facebook culture, which, by destroying the boundaries between our public and private selves, is making it harder to maintain genuinely individual identities.

Brandeis reminds us that globalized Facebook culture is just as destructive of individuality as huge corporate culture, and that true individuality may be cultivated by active engagement in smaller groups, defined by hyphenated identities, bounded by genuine shared values. Or as Kallen put it, "It is the variety and range of his participation which does in fact distinguish a civilized man from an uncivilized, a man of faith and reason from an unreasoning fanatic, a democrat from a totalitarian, a man of culture from a barbarian. Such a man obviously orchestrates a growing pluralism of associations into the wholeness of his individuality." After Brandeis's death, Kallen described the interaction between Jews and non-Jews as a source of mutual enrichment, noting that "the social orchestration which this intercultural exchange consummates actualizes the American idea and gives the culture of the American people the qualities that Whitman and Emerson and William James and Louis Brandeis celebrated."

All this, from a lawyer and a judge! But Louis Brandeis was more than a Supreme Court justice; he was a constitutional philosopher who belongs in the far-seeing company of Marshall, Hamilton, and Jefferson, and a social philosopher who was one of the inventors of American modernity. It is baffling, therefore, that he has so few acolytes among progressives and libertarians today. On the progressive left, the critics of corporate bigness are not equally suspicious of bigness in government, and rush to embrace centralized regulations—of health care and the economy—that Brandeis would have mistrusted. On the libertarian right, the Tea Party critics of a centralized federal government lack a similar mistrust of centralized corporate power, and in their deregulatory zeal are indifferent to the ways that unchecked oligarchies in the private sector can also threaten liberty. On the Supreme Court, liberal defenders of judicial deference to legislatures sometimes lack Brandeis's passionate opposition to bigness in business and government; and conservative defenders of states' rights and the separation of powers are sometimes indifferent to the individual liberties Brandeis thought both doctrines existed to protect. The ideological extremists who distort political discourse today grievously betray Brandeis's sense of balance and proportion, his accurate awareness of human limitations, and his faith in the possibility of transcending them through passionate engagement on a human scale. But as the richness of traditional cultures increasingly comes under attack by technology, and as the dark side of particularism increasingly needs to be disinfected by the sunlight of universal reason, Brandeis must again be heard. And as the centralizing tendencies of democracies, corporations, and technologies around the world continue to threaten human individuality, Brandeis's warnings about the dangers of size and the duties of public deliberation may help us to preserve the values of the American Framers and make them truly our own. This will require work. As Brandeis put it, "If we would guide by the light of reason, we must let our minds be bold." ◆

William Deresiewicz
LOOK AT ME!

THE PREGNANT WIDOW
By Martin Amis
(Knopf, 384 pp., $26.95)

Well, another civil, subtle, well-modulated novel from Martin Amis. Wait—what? British fiction's most flamboyant word-wrangler, subtle? The celebrated character-bully and reader-molester, civil? The epicure of extremism, well-modulated? Yes, apparently. This is a new Amis, similar in theme but different in subject as well as style. An Oxford-educated scion of the literary intelligentsia, Amis has made a career of *not* writing about his own milieu. His fiction has always been drawn to the depths: to yobs and bims and spivs, to pain merchants and porn mavens, to dart parlors and snooker dens and hand-job emporia—to the Cockney demimonde, with its toothsome vernacular and lurid moral coloration. But not here. You'd have to reach back nearly forty years, to *The Rachel Papers*, his very first book, to find him attempting a more autobiographical piece of fiction. The social register is middle-to-upper-class, the mental atmosphere bookish, the violence exclusively emotional. The characters are treated, uncharacteristically, with decency and respect—like friends or age-mates, people the author once knew, or was.

The bulk of the story, all but its final sixth, is set in the summer of 1970. Keith Nearing, the protagonist, is turning twenty-one, as his creator did the same season. Sex is on his brain, and in the air. The rules have changed, are still changing, and everyone is trying to figure them out—Keith; his girlfriend, Lily; their classmate Scheherazade, at whose family's idyllic Italian castle the three are spending their summer break; and the assorted other friends and connections who drift across the scene. *The Pregnant Widow* is a novel of the '60s and the sexual revolution, but not in the way you'd expect. The premise promises a lazy, hazy, crazy interlude of sex and drugs and rock 'n' roll, but these are well-bred British university students, and this is not Woodstock. No drugs, just a bit of drinking. No music, just a lot of reading. No mud pit, just a swimming pool. And as for sex—yes, there is, but not that much, and not that fun. What there mainly is for Keith and company (and this despite the fact that he and Lily go through the motions on a nightly basis) is sexual frustration.

The story, in other words, is both more interesting and more representative than the stereotypical '60s flashback. Most kids did not wind up in the Haight or the Village. London swung for a bold and lucky minority. In the suburbs and provincial towns, for the cautious or the timid or the dutiful, liberation was not so swift or sure. *The Pregnant Widow* may be a novel of the '60s, but it pointedly starts when the decade is already over. It also starts with Larkin's famous lines: "Sexual intercourse began / In 1963 / (Which was rather late for me)." If Larkin arrived too early, Keith and his friends have arrived a little too late. The decade is over, and *The Pregnant Widow*, as its title begins to suggest, is all about the aftermath.

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As for the immediate situation, a short numerical sequence, proffered at the outset, suffices to define the triangle that carries the story through most of its length. "Lily: 5' 5", 34-25-34. Scheherazade: 5' 10", 37-23-33." The second series might as well constitute the formula for TNT. In the last few months, Keith discovers upon his arrival, the girl he knew as a "frowning philanthropist in flatties and spectacles" has shot both up and out. Now she forms the subtext—if not, often, the actual text—of his and Lily's every interaction, verbal and otherwise. ("Was it fun?" "What?" "Pretending I'm Scheherazade.") As for Keith himself, "he occupied that much-disputed territory between five foot six and five foot seven"—in short, is drastically beneath Scheherazade's league, yet his summer inevitably becomes a tortured effort, first, not to think about her; then, to think about her as often as possible (that would be around the time he starts to see her sunbathe topless); then, to think about getting her into bed.

Amis, always a smooth observer of the sexual comedy, is deft and clever here. Scheherazade shows Keith her room. "He took it in, the white nightdress aslant the tousled bed, the heaps of shoes, the pair of starched jeans, trampled out of, all agape, but still on its knees and still cupping the form of her waist and hips." Her boyfriend, Timmy, is away, and she essays a tentative affair with a local aristocrat. "She says it's like being fifteen again," Lily tells Keith. "You know. Stages."

> Keith knew all about stages. With his teeth locked together, he said, "Which one are they on?"
>
> "Just kisses so far. With tongues now. She's building up to tits … they've grown a lot in the last six weeks. They feel different. Much more sensation. All throbby and tickly. And she wants to try them out."
>
> "Try out her tits."
>
> "Try out her tits. On Adriano." Lily paused and said, "Then go forward bit by bit and do the same with her box."

Trying out, bit by bit: that is pretty much what all these young people are doing, agape with thrill and terror at the new possibilities, and the new ways they test and measure you. Given their backgrounds, Lily, Scheherazade, and Keith respectively represent, we are told, intelligentsia, nobility, and proletariat, but now, Keith thinks, there is another system: "the looks system—the beauty system." Visions, Possibles, and Duds, as he puts it—no more just, and even less remediable, than the old arrangement. Lily, a mere Possible, is driven to grief by the proximity of her friend, the Vision. "Oh, Keith," she finally blurts, "*why* aren't I beautiful?" "There are bits of his body he doesn't like," we hear of another character. "He's *furious* with bits of his body."

Halfway through the novel, another couple, Kenrik and Rita, fucking their way across Europe, drop in at the castle. If this is the future, it doesn't look good, at least not from Kenrik's perspective. "You know the way you and me go on about chicks?" he confesses to Keith, "That's the way she goes on about *guys*—guys she's fucked. Guys don't fuck her. She fucks them. But listen. We don't go on like that about chicks *to chicks*, do we." The rules, indeed, have changed. The girls have gone wild, or some of them anyway, and the guys have no idea what to do about it.

Finally, as the summer approaches its end, Keith gets what he wants, though not in the way he'd expected. He gets what he wants, and it ruins his life. A long day of mind-altering sex ("There were so many things he hadn't known you were allowed to do"), but only sex, sex devoid of love or even like, inflicts the psychic injury that thirty years is not enough to comprehend or heal. The novel abruptly shifts gears. From a day-by-day account of that definitive summer, it accelerates, in its last few dozen pages, to a rapid scan of the ensuing decades—a different kind of aftermath. Having patiently laid out his cards, Amis now proceeds to read them, carrying Keith's future (and that, in glimpses, of his fellow summerers) past the turn of the millennium. Deaths and divorces flash by, crack-ups, betrayals, and lots of very, very bad decisions. The final note is elegiac. A chance meeting brings a bitter and belated clarity, and three marriages on, Keith finally reaches a measure of wisdom and rest.

We've been here before, with Amis. The humbling of male aggression and lust, their enclosure within the feminine, the domestic, is also the ultimate destination of John Self in *Money* (still its author's finest work, a quarter-century on) and Xan Meo in *Yellow Dog* (that odious embarrassment). But we reach it here through radically different stylistic means, and therefore, radically different ethical ones.

Style has always been Amis's greatest strength and weakness. In his study of Nabokov, Michael Wood makes the useful heuristic distinction between style and what he calls "signature." Signature announces the author's presence. Style, Wood says, "is something more secretive … a reflection of luck or grace, or of a moment when signature overcomes or forgets itself." With style, "we think about the writing before we think about who wrote it." Well, Amis's style, in his most characteristic works, as glorious as it often is, is all signature, is always signature. Signature is the whole point of it. Look at me, it says. Look at me, me, me:

> Even the Asians and West Indians who lived there had somehow become Saxonized—they loped and leered, they peed, veed, queued, effed and blinded, just like the locals.

> Richard sent his mind back to the napkin-scarved bottles of old champagne tipped his way by tuxedoed athletes (even the help was hip, was hot) and bims in ra-ra skirts offering canapés made of dodo G-spots and hummingbird helmets.

> And there were two or three like himself, the uncrowned kings of Head Injury [i.e. the hospital's Head Injury ward]—virtuosos of toothbrush and hairbrush, crack urinators, adepts of the shoelace and the beltbuckle, silky eaters: Renaissance Men.

Whatever else these bravura exhibitions do—these image-riffs and diction-dances, these sound-tricks and pun-stunts—they never let you forget about the person who is performing them. When Amis published a collection of literary essays a few years ago, he called it *The War Against Cliché*, and the phrase functions for him as something like a four-word manifesto (one that descends from Pound's even terser slogan, "make it new"). Never say anything the usual way. Let every phrase be novel, charged, alert. And that's the remarkable thing: he manages it. You sit there with your eyebrows at your hairline. But the war against cliché can have its casualties. With Amis, the victim is our own involvement with the story, with the characters, because the style, the exhibition of style as style (look at me!), is always getting in the way. His trapeze act up on the sentences—that becomes the story.

Amis's style is not just ostentatious, it is also, not coincidentally, aggressive, even punitive—toward his characters, first of all ("crack urinators," "bims in ra-ra skirts"). His novels are violent, but he is also violent in them. Before they are betrayed or beaten or bankrupted, before their beds or their kids are defiled, their souls soiled and trashed, his

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protagonists are roughed up by the language that handles them: sneered at and snarked on, battered with bathos, baited like bears in a pit. Amis never picks a fair fight. His novels have the shape of tragedy—ambitions punished, stratagems demolished, blindness exposed—but without any of its dignity. He doesn't sympathize with his characters, those lowlifes and tough guys, he has contempt for them. He's Martin fucking Amis, after all, and who the hell are they? *The Information*, an anomaly in other respects, reinforces the point. There the principal characters—two writers, Richard Tull and Gwyn Barry—do belong to their author's demographic. But Gwyn is a successful hack, and Richard is a talented failure. Richard has contempt for Gwyn, and Amis has contempt for both. What's missing from the novel, in other words, is a figure like Amis himself, successful *and* talented, someone his creator would be forced to regard as an equal.

But it isn't just his characters. "He didn't love his readers," Amis tells us of Richard, "as you need to do." The remark echoes an older one about Joyce, from the essay that gives *The War Against Cliché* its title. Amis learned a lot from Nabokov and Joyce, his major models, and some of it is wrong. He learned not to love his readers—to disdain them, rather—and to use style as a form of display, in the alpha-male-gorilla sense, designed to cow the reader into a sense of inferiority. (Of course, each writer's famously abstruse vocabulary performs the same function: "ineluctable modality of the visible" in Joyce, "ganch" and "phocine" and "houghmagandy" in Nabokov, "punnet" and "intercrural" and "myxomatotic" in Amis.) Style, and also structure: like Joyce and Nabokov, Amis trades in mysteries, in riddles, in revelations half-offered in quasi-cryptic language. From *Money*: "You asshole.... You won't ever guess right. In bed he's a woman." It's a test: are we smart enough to figure it out (in bed he's a what? in bed he's a how?), or are we also just assholes who won't ever guess right?

This is the legacy of modernism, superior art for superior people, but in Amis's case it also smells of something else. This is how they do it in England—test each other, all the time, to see who belongs. And in the place that Amis went to school, the test invariably takes the form of the Great Oxford Cleverness Derby. It's an economy of insecurity, which Amis reproduces in his work. He makes us worry about whether we're smart enough for him, and he worries about whether he's smart enough for Nabokov and Joyce.

But lately there's been a shift. Amis's career began with a series of short, sharply pointed works: *The Rachel Papers*, *Dead Babies*, *Success*, and *Other People*. Then came the so-called "London trilogy," actually three novels connected not by continuity of plot but by resemblances of setting, scope, and tone: *Money*, *London Fields*, and *The Information*, sprawling, ambitious works in which their author's characteristic style and strategies fully flowered. In retrospect, this broad middle phase of his career (which also included two experimental novellas, *Time's Arrow*, a misguided attempt at Holocaust fiction, and *Night Train*, a variation on the detective novel) seems to have terminated with *Yellow Dog*—which, with its frat-house humor and gleeful sadism, represented a kind of unintentional self-parody of the mature (to use the term loosely) Amis style.

Yellow Dog, in other words, was a dead end, and however vociferously its author defended the novel in public, he must have realized as much himself. His next novel, *House of Meetings*, took a completely different tack. The Amis style was gone, because the Amis narrator (who was either a third-person presence or a first-person protagonist who sounded just like him) was also gone. The result was Amis's finest book since *Money*. The narrator is a survivor of the gulags, and this is how he sounds:

> For as long as I could bear it I sat with them in the shadows. Ten minutes. In the station hotel the water in the bathroom ran black. And this didn't in the least surprise me or concern me. What color was water supposed to be? I looked in the mirror and I felt I could just remove it, my face. There would be clasps, behind the ears, and it would come away.

This is a totally different sound: restrained, quietly forceful—the simplicity of ripened art. Amis appears to have learned how to get out of his own way, to give himself over to a character, to dissolve cleverness into craft, "signature" into true style. Ironically, his novels had always tried to make a case, underneath all the mayhem, for simple human decency. Now, at last, he had a style that practiced what it preached.

The Pregnant Widow argues that the shift wasn't merely an artifact of the previous book's particular narrator and subject. The novel returns to the third person and to a whole range of typical interests: social comedy, domestic relationships, England and the English and sex, sex, sex. But it does so without the edge and burlesque, the mood of menace and scorn. The voice isn't bland, it's just sober, and subtle: "But it was a good entrance—Timmy's. Long, slender, loose, vague, and somehow limply stylish—like a doodle from a talented hand." The humor, as in Keith and Lily's "tits" exchange, is allowed to emerge naturally from the situation, without being goosed all the time by the language. Characters, even outrageous ones such as Rita (the one who goes on about *guys*), are served up straight and allowed to make their case. "Ah," she says, "he's after sympathy, is he"—"he" being Kenrik, who's just denounced her to the company at large:

> He's after pity. Because he's terrified. He wants his mummy. You're just old-fashioned, love. You're like second-hand furniture. See, for Rik, what he likes is a nice little simperer—a simperer with a sopping hanky. Ooh, you mustn't. That's rude, that's bad. Oh go on then, you animal, do your worst. I promise I won't enjoy it. God, were we ever as dull as that, us birds? Were we ever as bloody dull as that?... Now who's coming dancing. I want to wag a hip. Time for me limbo.

Rita is crude, but she's right: it was time for her limbo. What was really changing, as the world was changing, as sex was changing—and this is one of the novel's largest subjects—was the birds. The guys were already like that, and now the girls were becoming that way, too, if they dared. "I'm a boy," says the woman who deflowers Keith's soul, "I've got a cock.... I *am* a cock." But it cut both ways. Feminism thought that men were the ones who were going to have to change, the narrator says, but in fact it was women who did. On the other hand, as Rita knows and as Keith and Kenrik traumatically discover, women had the sexual power now. "The She Decade," Amis renames the years upon which the world was embarking that summer of 1970. So the story gives us Lily and Scheherazade and Rita and any number of others, all trying to figure out who they wanted to be, and all the men can do is drag along, rather limply, in their wake, waiting to see what the future is going to look like.

ANTHONY RUSSO

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Keith puts the matter a little differently: "What were heroines allowed to do?" he asks himself again and again. He's studying English, and when he's not thinking about Scheherazade, he spends the summer reading his way across the classic English novel, from *Pamela* to *Women in Love*: *Emma*, *Vanity Fair*, *Wuthering Heights*, *Jude the Obscure*, etc., etc. It is a body of work, of course, whose essential question is precisely that. The novels try to figure it out, and so do the heroines: what were they allowed to do? Needless to say, Keith's syllabus becomes the frame of reference through which *The Pregnant Widow*—and the characters themselves—attempt to get a purchase on what's going on in front of them, and the story develops into an intermittent seminar on Sex and the Single Girl, 1740–1920. "One fuck in two thousand pages.... Guess what she does afterwards. Dies of shame." "Catherine Morland has big tits ... her *figure gains consequence* ... that's code for big tits." "There's the lovely Dorothea, and you lust after that grasping bitch Rosamond Vincy."

Amis is gesturing toward the main tradition of English fiction, but his imaginative limitations debar him from entering it. *The Pregnant Widow* is no more a heroine novel than any his others, its focus still on male experience, its women still figments of masculine desire. He can show women behaving independently, but unlike Richardson or Thackeray or Hardy (to say nothing, of course, of George Eliot or the Brontës), he cannot endow them with imaginative autonomy. His engagement here is purely critical.

But though he may not enter the tradition, he does impressively reinterpret it—or at least tease us with the possibility of doing so. At the center of the discussion is Jane Austen—Amis's first literary influence, the writer he credits here with inaugurating "the line of sanity" in English fiction, and the most celebrated explorer of the question of what heroines were allowed to do. And at the center of the center, of course, is *Pride and Prejudice*. In the middle of their long day of debauchery (that is, at the center of the center of the plot), Keith's ravisher, who's been reading Austen's book, mounts a rather stunning argument about its heroine. "She's as bad as I am, she is." In other words, "Elizabeth's a cock"—sexually ravenous, adventurous, aggressive. "She can't be," Keith protests, "There weren't any then. Surely." But the evidence, though scattered, is surprisingly persuasive, and if Elizabeth Bennet's not the girl we thought she was, then who is? The whole canon, apparently, is up for grabs. "In a thickened voice he said, *I'm going to give you* Sense and Sensibility."

Were women changing, or were they only revealing themselves—like Keith's instructress herself, who before that day had seemed to be the furthest thing from a "cock"—for what they've always been? And if heroines were allowed to do just anything they wanted now, then what kind of shape were our lives supposed to have? "The only way to deal with being a cock, then," Keith is told, "was marrying for love. Good sex had to follow the emotions. It's not like that now." So what is it like? Keith, "all clogged up with the English novel," keeps wondering what genre he's stumbled into that summer. Was social realism going to hold, or would events take a turn for the fantastic? (He's a K in a castle, after all.) Was this a Russian novel, or only an American one, or better still, an English one?

The Pregnant Widow, thanks to Keith, is Amis's most self-consciously literary fiction—rather too much and too essayistically so—but the question is one he's asked before. "What genre did his life belong to?" thinks Richard in *The Information*. "It wasn't pastoral. It wasn't epic." Genre dictates character and setting and mood and event, but most of all, it governs fate: the form that lives are going to take. The old genre, which depended on girls who weren't allowed to do too much and didn't even want to ("Ooh, you mustn't"), was not, Keith was realizing, going to hold anymore.

Amis plays a double game here. On the one hand, he tells us that there's another genre, "Life," and that that's all we really have a right to expect: "the world of Well Anyway, and Which Reminds Me, and He Said, She Said"—one damn thing after another, with no sense or pattern, no moral shape or generic consistency. On the other, he stuffs *The Pregnant Widow* with a surfeit of form. The novel's main body is divided into six parts. Each part has four chapters followed by an "interval" that flashes forward to Keith's climactic recognition and crisis a third of a century later. Every part and chapter has a title, that most traditional way of endowing the flow of contingency with focus and meaning. And the story, throughout, is festooned with allusions, which are ways of making pattern across time—not only to the classic English novel, but to Dante and Milton (fallen angels, reptiles in gardens), to *The Tempest* (sea changes) and most consistently and conspicuously, to Ted Hughes's *Tales from Ovid* (bodies changing into different bodies, as Scheherazade's does literally—the inciting event—and others' do in other ways, but always through the force of eros).

Is this an ironic game—an excess of order in a novel that narrates the breakdown of order? I don't think so. Amis is not pretending to try too hard to make sense of what Keith and his millions of age-mates were going through, he really is trying too hard. Behind the Cockney cacophony, his novels have always possessed an articulate moral shape. Action leads to consequence, sin to retribution; nemesis may be delayed but never denied. Dark manipulators lurk behind the scenes, directing the characters' destinies: Johnny in *Dead Babies*, Fielding Goodney in *Money*, Nicola Six in *London Fields*, Joseph Andrews in *Yellow Dog* (and Joseph Stalin, for that matter, in *House of Meetings*). The world is dreadful but coherent.

Here, improbably, the whole course of Keith's life is determined by that day in 1970. As usual, Amis leaves the crux of the matter dark, but the suggestion seems to be that the encounter wasn't simply loveless sex, eerily impersonal and somehow even fraudulent, it was loveless sex with Keith as object, and not a particularly valued object, either. He was used and discarded, violated by a "cock," and the experience constituted a kind of psychological castration. A "wound," the narrator calls it on the very first page, "a sexual trauma." There's a silent allusion, to a passage that combines both Joyce and Shakespeare, that seems to be at work beneath the text. Stephen Dedalus, spinning out his theory of the Bard's life in *Ulysses*, arrives at the marriage to Anne Hathaway, conducted when Shakespeare was eighteen and Anne was twenty-six—callow boy and traveled woman, just like in *The Pregnant Widow*:

> He chose badly? He was chosen, it seems to me. If others have their will Ann hath a way. By cock, she was to blame. She put the comether on him, sweet and twentysix.... Belief in himself has been untimely killed. He was overborne in a cornfield first ... and he will never be a victor in his own eyes after nor play victoriously the game of laugh and lie down.... The tusk of the boar has wounded him there where love lies ableeding.... There is ... some goad of the flesh driving him into a new passion, a darker shadow of the first, darkening even his own understanding of himself.

A pretty idea, in Amis as in Joyce, but finally too pat. Keith's undoing is forcefully rendered but seems too narrow a point upon which to balance the story.

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And not just his story, but that of the entire era—which, Amis insists, is our era still. A consciousness of history, how it moves and molds, has long set the intellectual terms of Amis's work. His novels about Auschwitz and the Gulag are obvious manifestations, as are his writings on terrorism, collected recently in *The Second Plane*. But his other novels, too, have wanted to discover where we're going, and always paid a lot of attention to people who "came from the future," as *Night Train* puts it, and point the darkened way ahead—people like the shooting victim in that novel, or Steve Cousins, the hood, in *The Information*, or Keith's seducer here.

The explanatory ambition of *The Pregnant Widow* is not small, as the epigraph from which the title comes announces at the outset. "Not an heir, but a pregnant widow," Alexander Herzen said, is what the death of a social order leaves behind. Before the next can emerge, "a long night of chaos and dissolution will pass." It is that long night, Amis argues, through which we are traveling yet—a night of foundered lives and torn relationships, psychic disfigurement and social dementia. Which ought to sound familiar. *The Pregnant Widow* is a work of archaeology, a Rosetta Stone for its author's oeuvre. That long night is precisely what he's always been describing in all those novels about the '80s and the '90s and the '00s, and now he's trying to go back and explain how it all came to happen.

The first answer, he suggests, is the divorce of sex from feeling, from meaning. "She went at it as if the sexual act, in all human history, had never been suspected of leading to childbirth.... All the ancient colourations of significance and consequence had been bleached from it." But beneath even that, he insists, is the sin of self-love:

> The first thing she did, with her gaze on the mirror, was attend to her breasts in a way he had never seen before. She said ardently,
>
> "Oh, I love me. Oh I love me so."
>
> Neither blinked as thunder split the room.

The mirror, the pool: the novel's chief intertext, imaged and quoted and paraphrased throughout, is the story of Echo and Narcissus—love starved by self-love, self-love entraining its own destruction. "All decades," the narrator says, "were now me decades."

On a superficial level, this is hard to argue with, but there are problems. For one thing, the novel doesn't measure up to its own ambitions. It's a small story for so large a subject—small in scope, but more to the point, small in impact. Amis often has this trouble, fumbling his frissons, leading us a long way to deliver an emotional charge that's much less potent than he seems to think it is. Here the historical lessons are conveyed by and large discursively, the narrator standing back and moralizing on a story that is, however well told, finally rather slight. We don't feel the meanings, we just listen to them.

For another thing, is this really true? Did loveless sex and excessive self-love really not exist before the '60s, or does Amis imagine, like all the other Boomers, that contraception, dirty sex, and female orgasms were waiting around for them to come along and dream them up? And to the extent that it is true, didn't we know it already? Do we really need Martin Amis to tell us, in 2010, about the consequences of the sexual revolution? He has perpetrated this sort of effrontery before. *Koba the Dread*, a non-fictional precursor to *House of Meetings*, lectured us about the evils of Stalinism fifty years after the fact. Amis is one of those people—speaking of self-love—for whom nothing happens until the moment they think of it.

He also needs to think a little harder. Narcissism, as an explanation for everything that's happened to personal life over the last four decades, is as glib and simplistic as it was when Tom Wolfe first pinned his label on the '70s. As a novelist, Amis leans too heavily on the psychological as a source of historical understanding, with no apparent awareness of the social or the economic. He is also too charmed by the shapeliness of the monocausal explanation. There's an analogy here with Keith's story. One event explains the protagonist's life; one concept explains the life of the entire culture. Amis's essays on Islamic fundamentalism make the same aesthetic mistake. It's all about cultural humiliation, he says. Or it's all about sexual frustration, or the promise of heaven, or "boredom" (which I still don't understand). One of those things, but never more than one at the same time, never the complex explanation, the nuanced understanding, the messy, seasoned, cautious view. He likes to have things figured out. He likes to put them in a box, so he can get started on the wrapping.

If the interpretation he offers in *The Pregnant Widow* is too easy, so is the solution. Amis calls himself an agnostic, but for about the last fifteen years he has been a votary of that most common creed among the liberal middle class, the religion of children. "Whatever else they may get up to," he wrote in 1995 in an essay on the childless Philip Roth, "children prolong your story. They escort you from the biological desert, where all you hear are the jabberings of sex and death." *The Information*, published the same year, likewise offers offspring as the great oasis, and the idea is repeated in both *Yellow Dog* and here. "Geopolitics may not be my natural subject," he wrote in the preface to *The Second Plane*, "but masculinity is." The trials of the male beast, maddened by sex and terrified by death, are indeed his constant theme. A growing horror of physical decay, the weary animal slumping toward the grave, and a sharpening ache for the domestic, the peace of the female sphere, are the ground notes of Amis's work over the last decade and a half. Beneath the bad-boy bravado lies a broad, soggy bog of sentimentality—its source, as always, self-pity. Amis's real quarrel with the sexual revolution seems to be that in provoking women to conduct themselves sexually like men, it has destroyed their civilizing function—their ability, not to serve men, but to tame and thus redeem them.

It is surely no coincidence that Keith's familial configuration mirrors that of his creator. Each has two sons by a previous marriage and two daughters by the current one. Amis's first child, whom he fathered as a young man in the course of a brief affair and didn't meet until the girl was nineteen, is paralleled by Keith's stepdaughter, Sylvia, twenty-nine at the story's conclusion and enlisted by the novel as a spokesperson for the higher truth—one of those wiser, more evolved next-generation types that show up in Boomer lamentations. Feminism, Sylvia says, demanded the wrong thing. Instead of worrying about sexual freedom, it should have gone all out for "fiftyfifty"—household duties fully shared in all their dreary particulars. (It seems to me that that's exactly what it went all out for, but never mind.) In other words, it should have pushed men further into domesticity, not away from it. Sylvia's own marriage, staunchly fifty-fifty, represents the novel's rather easy vision of a brighter future.

Sentence by sentence, Amis still writes some of the keenest prose in English today. But looking back a quarter of a century to *Money*, when he was the most promising young novelist in Britain, you have to ask yourself what happened. "Although his prose was talented," we read of Richard in *The Information*, "he wasn't trying to write talent novels. He was trying to write genius novels." No one, it now seems clear, will ever say that about Richard's creator. ◆

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Washington Diarist

Non-Event

For my sins, I have been reading Alain Badiou. (The intellectual's work is never done.) He is, in his own words, "the most widely read and translated French philosopher in the world." More banally, he is the very latest professor of liberation; and more banally still, the very latest professor of liberation from liberalism. In his conceptually delirious way, he mocks "the presumed 'rights of man' " and "the humanism of human rights" in favor of an "emancipatory politics." If the word "democracy" can still be salvaged, it is only by means of "a detour through the Idea of communism." Badiou regards it as his "thrilling task" to "give new life to the communist hypothesis." He adduces "the People's War of Liberation in China, from 1927 to 1949" and "Bolshevism in Russia, from 1902 to 1917" and "the Great Cultural Revolution [in China], at any rate from 1965 to 1968" as examples of "a new practice of collective emancipation." He lists "the first sequence of the Iranian revolution" and the Zapatistas in Mexico admiringly alongside the Solidarity movement in Poland. He once wrote a commentary—"guided by the idea of the eternity of the True"—on Mao's writings on Stalin. This slavish devotion to historical cataclysm, this guiltless affiliation of progressivism with barbarism, is derived from the mysticism of "the event" in his masterwork ("I was quite aware of having written a 'great' book of philosophy") *Being and Event*, a rancidly overdeveloped and almost risibly arcane system of ontology according to which "truth procedures" in art, science, politics, and love are melodramatically inaugurated by a rupture in the normal order of things and new possibilities are violently disclosed. Badiou's "event" is something between a revolution and a revelation, and it expresses his deep contempt for the transcendences that may be had in unclimactic, unecstatic, unapocalyptic experience, in events that are not "events." The human subject is "nothing other than an active fidelity to the event of truth," or "a militant of truth." This is not at all postmodernism (which is all the good that can be said of it); it is a godless theology in which Badiou's elect, in the radiance of *l'événementiel*, march to free us from "our 'democratic' totalitarianism" and attain "the emancipation of humanity in its entirety." In sum, a heartless bastard.

And nowhere more so than in his analysis of the Jews. Badiou despises Israel. Zionism was an "event"—Badiou's greatest benediction—owing to "the emergence [within it] of the great revolutionary communist and socialist projects," but it was a "counter-event"—Badiou's greatest malediction—owing to its "colonialism." Israel is a "colonial state" for which Palestinians are "slaves." It has engaged in "the project of a genocide of the Palestinians." And so Israel must disappear into "the creation of a secular and democratic Palestine." All this makes Badiou just another member of the high-progressive mob (and in his desire to erase Israel, somewhere to the right of Saudi Arabia). But then he adds his own contribution to the discourse of delegitimation. In the wake of Auschwitz, he instructs, "Jewish identity has triumphed through a historical glorification of its name." For "the name 'Jew' became, like every name of the victim of a frightful sacrifice, a sacred name," and "the predicate 'Jew' and its religious and communitarian dimension … receive[d] some singular valorization—a transcendent annunciation!" (I mean, think about it: who *really* benefited from the Holocaust?) The objective of Badiou's writing on the Jews is to strip "Jew" of this dark glamour by denying the whole of Jewish particularity. His principle is that "the intrusion of any identity predicate into a central role for the determination of a politics leads to disaster." Indeed, "truly contemporary states or countries are always cosmopolitan, perfectly indistinct in their identitarian configuration." (Which states or countries does he mean? Never mind.) (Are there not many states or countries in the throes of such "disaster"? Never mind.) It is the Jews who must teach perfect universalism, "the dissolution of all identity," to the world. It is Israel that "must become the least racial, the least religious, and the least nationalist of states. It must become the most universal of all." We must "agree upon a meaning for the word 'Jew' that would have universal import." The glory of a secular democratic Palestine, you see, is that it would be "subtracted from all predicates." (What about the predicate "Palestine"? Never mind.) Who are Badiou's authorities for this purification—which is to say, this annihilation—of Jewish identity? Spinoza, Marx, and Freud, of course, the non-Jewish Jews, the defectors and the subverters, the ones who enabled a century of radical critics of actually existing Jewish life to believe that they understood the first thing about it. Badiou knows nothing about the Jews and their history, which he crudely summarizes as "SIT," or "the Shoah, the State of Israel, and the Talmudic Tradition"—*der Talmudjude*! And he goes a virulent step further. His disqualification of Jewish specificity is mandated by none other than Paul, "the greatest ancient Jew," who presciently recognized that "every truth procedure collapses differences" when he proclaimed that "there is neither Jew nor Greek." And so the disciple of Althusser and Lacan arrives at the hoary Christian dogma of the usurpation of Judaism by a new universalism. Progress!

I should add that the predicates "French" in "French Revolution" and "Chinese" in "Chinese Revolution" do not repel Badiou, for whom they are merely "the empirical indices of this localization" of an event. So isn't this anti-Semitism, you ask? But I will not fall into your trap. I know that almost nothing is anti-Semitism, and that the allegation of anti-Semitism is usually more offensive than anti-S … no, I will not fall into it. Let us say rather that Badiou's belligerent treatment of Judaism and Jewishness is an abomination with historical precedent. It is no advance on Marx's infamous conclusion that "the emancipation of the Jews is the emancipation of mankind from Judaism," which is the very prooftext of coercive universalism. It is clear, I hope, that justice for the Palestinians, which many Jewish Jews wish, does not require this hatred: it is an indecency of its own. Let Belgium or Pakistan be the light unto the nations. Badiou's philosophy of intolerance is a disgrace to genuine universalism. There will be justice for nobody until we are emancipated from "emancipation."

Leon Wieseltier

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Johnny Paen lost his wife, kids and job in the quake. Now he is back working, clearing debris and drains on a WFP Cash-and-Food-for-Work project, making his city better and safer.
Six months after the quake, WFP and Haitians are working together to rebuild lives
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Don't waste money.

Invest in quality early education for children from birth to age five today and realize gains tomorrow. Nobel Laureate economist James Heckman has found that every dollar invested in quality early childhood education for at-risk children delivers economic gains of 10% per year through school readiness, increased achievement, healthy behavior and adult productivity. It helps us save money by preventing the achievement gap, reducing the need for special education, and maximizing taxpayer investments in education and health. Last year, the House passed the Early Learning Challenge Fund in a vote to start building a better US. Senators, don't waste money—pass the Early Learning Challenge Fund.

Investing in Early Childhood Education is the first step in building a better US.

The First Five Years Fund

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